SUPREME COURT
OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

- - - - - - - - - - - - - - - - - -

REYNALDO GONZALEZ, ET AL.,)
Petitioners,)
v.) No. 21-1333
GOOGLE LLC,)
Respondent.)

- - - - - - - - - - - - - - - - - -

Pages: 1 through 164

Place: Washington, D.C.

Date: February 21, 2023

HERITAGE REPORTING CORPORATION

Official Reporters

1220 L Street, N.W., Suite 206

Washington, D.C. 20005

(202) 628-4888

www.hrccourtreporters.com

1 IN THE SUPREME COURT OF THE UNITED STATES

2 - - - - - - - - - - - - - - - - - -

3 REYNALDO GONZALEZ, ET AL.,)

4 Petitioners,)

5 v.) No. 21-1333

6 GOOGLE LLC,)

7 Respondent.)

8 - - - - - - - - - - - - - - - - - -

9

10 Washington, D.C.

11 Tuesday, February 21, 2023

12

13 The above-entitled matter came on for oral

14 argument before the Supreme Court of the United

15 States at 10:03 a.m.

16

17 APPEARANCES:

18 ERIC SCHNAPPER, ESQUIRE, Seattle, Washington; on

19 behalf of the Petitioners.

20 MALCOLM L. STEWART, Deputy Solicitor General,

21 Department of Justice, Washington, D.C.; for

22 the United States, as amicus curiae, supporting

23 vacatur.

24 LISA S. BLATT, ESQUIRE, Washington, D.C.; on behalf of

25 the Respondent.

1 C O N T E N T S

2 ORAL ARGUMENT OF: PAGE:
3 ERIC SCHNAPPER, ESQ.
4 On behalf of the Petitioners 3
5 ORAL ARGUMENT OF:
6 MALCOLM L. STEWART, ESQ.
7 For the United States, as amicus
8 curiae, supporting vacatur 70
9 ORAL ARGUMENT OF:
10 LISA S. BLATT, ESQ.
11 On behalf of the Respondent 114
12 REBUTTAL ARGUMENT OF:
13 ERIC SCHNAPPER, ESQ.
14 On behalf of the Petitioners 161

15
16
17
18
19
20
21
22
23
24
25

1 P R O C E E D I N G S

2 (10:03 a.m.)

3 CHIEF JUSTICE ROBERTS: We'll hear
4 argument this morning in Case 21-1333, Gonzalez
5 versus Google.

6 Mr. Schnapper.

7 ORAL ARGUMENT OF ERIC SCHNAPPER
8 ON BEHALF OF THE PETITIONERS

9 MR. SCHNAPPER: Mr. Chief Justice, and
10 may it please the Court:

11 Section 230(c)(1) distinguishes
12 between claims that seek to hold an internet
13 company liable for content created by someone
14 else and claims based on the company's own
15 conduct. That distinction is drawn in each of
16 the three sections of the statute.

17 First, Section 230(c)(1) is limited to
18 claims that would treat the defendant as a
19 publisher of third-party content. The statute
20 uses "publish" in the common law sense. The
21 Fourth Circuit decision in Henderson correctly
22 interprets this statute in that manner and
23 concludes that it involves two elements: the
24 claim must be based on the action of the
25 defendant in disseminating third-party content,

1 and the harm must arise from the content itself.
2 Second, Section 231 -- 230(c)(1) is
3 limited to publication of information provided
4 by another content provider, which is often
5 referred to as third-party content. The
6 statutory defense doesn't apply insofar as a
7 claim is based on words written by the defendant
8 or other content created by the defendant. In
9 some circumstances, the manner in which
10 third-party content is organized or presented
11 could convey other information from the
12 defendant itself, as the government notes.
13 Third, Section 230(c)(1) only applies
14 insofar as a defendant was acting as an internet
15 computer service. Most entities that are
16 internet computer services do other things as
17 well. This Court technically is an interactive
18 computer service because of its website. It
19 does other things, as it is doing today.
20 Conduct that falls outside that line of activity
21 is outside the scope of this statute.
22 A number of the briefs in this case
23 urge the Court to adopt a general rule that
24 things that might be referred to as a
25 recommendation are inherently protected by the

1 statute, a decision which would require the
2 courts to then fashion some judicial definition
3 of "recommendation."
4 We think the Court should decline that
5 invitation and should instead focus on
6 interpreting the specific language of the
7 statute.
8 I welcome the Court's questions.
9 JUSTICE THOMAS: Mr. Snapper --
10 Schnapper, just so we're clear about what we're
11 -- the -- your claim is, are you saying that
12 YouTube's application of its algorithms is
13 particular to -- in this case, that they're
14 using a different algorithm that -- to the one
15 that, say, they're using for cooking videos, or
16 are they using the same algorithm across the
17 board?
18 MR. SCHNAPPER: It's the same
19 algorithm across --
20 JUSTICE THOMAS: So --
21 MR. SCHNAPPER: -- the board.
22 JUSTICE THOMAS: -- so what is -- if
23 -- if it's the same algorithm, I think you have
24 to give us a clearer example of it -- what your
25 point is exactly. The same algorithm to present

1 cooking videos to people who are interested in
2 cooking and ISIS videos to people who are
3 interested in ISIS, racing videos to people who
4 are interested in racing.
5 Then I think you're going to have to
6 explain more clearly, if it's neutral in that
7 way, how your claim is set apart from that.
8 MR. SCHNAPPER: Surely. The -- if I
9 might turn to the practice of displaying
10 thumbnails, which is a major part of what's at
11 issue here, the problem -- and the issue is not
12 the manner in which YouTube displays videos. It
13 actually displays, as you doubtless know from
14 having looked at, these little pictures, which
15 are referred to as thumbnails. They are
16 intended to encourage the viewer to click on
17 them and -- and go see a video.
18 It's the use of algorithms to generate
19 these -- these thumbnails that's at issue, and
20 the thumbnails, in turn, involve a -- involve
21 content created by the defendant.
22 JUSTICE THOMAS: But the -- it's
23 basing -- the thumbnails, from what I
24 understand, is based upon what the algorithm
25 suggests the user is interested in. So, if

1 you're interested in cooking, you don't want
2 thumbnails on light jazz. You -- so the -- it's
3 -- it's -- it's neutral in that sense. You're
4 interested in cooking. Say you get interested
5 in rice -- in pilaf from Uzbekistan. You don't
6 want pilaf from some other place, say,
7 Louisiana.
8 The -- so the -- I don't see how that
9 is any different from what is happening in this
10 case. And what I'm trying to get you to focus
11 on is if -- if the -- are we talking about the
12 neutral application of an algorithm that works
13 generically for pilaf and -- and it also works
14 in a similar way for ISIS videos? Or is there
15 something different?
16 MR. SCHNAPPER: No, I think that's
17 correct, but -- but our -- our view is that the
18 fact that a -- a -- an algorithm is neutral
19 doesn't alter the application of the statute.
20 The statute requires that one work through each
21 of the elements of the defense and see if it
22 applies.
23 The -- the lower courts, in a couple
24 of cases, have said that -- really disregarding
25 the requirements of the -- of the defense, that

1 as long as an algorithm is neutral, that puts
2 the -- the conduct outside the -- within the --
3 the protection of the statute.
4 But that's not what the statute says.
5 The statute says you must be acting -- you must
6 be -- the claim must treat you as a publisher.
7 CHIEF JUSTICE ROBERTS: Well, but, I
8 mean, the -- the -- the difference is that the
9 Google, You -- YouTube, they're still not
10 responsible for the content of the videos or --
11 or text that is transmitted.
12 Your focus is on the actual selection
13 and recommendations. They're responsible that a
14 particular item is there but not for what the
15 item -- item says. And I -- I don't -- I -- I
16 think part -- it may be significant if the
17 algorithm is the same across -- as Justice
18 Thomas was suggesting, across the different
19 subject matters, because then they don't have a
20 focused algorithm with respect to terrorist
21 activities or -- or pilaf or something, and then
22 I think it might be harder for you to say that
23 there's selection involved for which they could
24 be held responsible.
25 MR. SCHNAPPER: The -- the -- the

1 statute, I think, doesn't draw the distinction
2 that way. The -- the claim here is about the
3 encouragement of -- of -- of users to go look at
4 particular content. And that's the JASTA claim
5 that we'll hear about tomorrow.
6 And the underlying substantive claim
7 is encouraging people to go look at ISIS videos
8 would be aiding and abetting ISIS. More on that
9 tomorrow.
10 But, if that's an actionable claim,
11 then the conduct here would fit within it,
12 the -- because certain individuals would be
13 shown these thumbnails, which would encourage
14 them to go look at those videos.
15 JUSTICE KAGAN: So I think you're
16 right, Mr. Schnapper, that the statute doesn't
17 make that distinction. This was a pre-algorithm
18 statute. And, you know, everybody is trying
19 their best to figure out how this statute
20 applies, this statute which was a pre-algorithm
21 statute applies in a post-algorithm world.
22 But I think what was lying underneath
23 Justice Thomas's question was a suggestion that
24 algorithms are endemic to the internet, that
25 every time anybody looks at anything on the

1 internet, there is an algorithm involved,
2 whether it's a Google search engine or whether
3 it's this YouTube site or -- or -- or a Twitter
4 account or countless other things, that
5 everything involves ways of organizing and
6 prioritizing material.
7 And -- and that would essentially mean
8 that, you know, 230 -- I guess what I'm asking
9 is, does -- does -- does your position send us
10 down the road such that 230 really can't mean
11 anything at all?
12 MR. SCHNAPPER: I -- I -- I don't
13 think so, Your Honor. The question -- as you
14 say, algorithms are ubiquitous, but the question
15 is what does the defendant do with the
16 algorithm. If it uses the algorithm to direct
17 -- to encourage people to look at ISIS videos,
18 that's within the scope of JASTA.
19 It's not different than if back in
20 1996 a lot of clerks somewhere at Prodigy did
21 this manually and just had a bunch of file cards
22 and they figured out who was interested in what.
23 The statute would have meant the same
24 thing there that it does now. It's automated,
25 it's at a larger scale, but it doesn't change

1 the nature of what they're doing with the
2 algorithm. So --
3 JUSTICE SOTOMAYOR: Can I -- I'm
4 sorry, finish.
5 MR. SCHNAPPER: The -- the -- the
6 brief -- I think the brief for Respondent points
7 to a number of uses of algorithms, for example,
8 to pick the cheapest fare or things like that.
9 That's just outside the scope of the statute.
10 The algorithm is being used there to generate
11 additional content.
12 So the question is what you do with
13 the algorithm. The fact that you did it with an
14 algorithm doesn't give -- yield a different
15 result than if you had a lot of hard-working
16 people in a -- in an office somewhere doing the
17 same thing.
18 JUSTICE SOTOMAYOR: We seem --
19 JUSTICE KAGAN: Well, I -- I -- I
20 guess I --
21 JUSTICE SOTOMAYOR: Oh.
22 JUSTICE KAGAN: -- I -- I take the
23 point -- if -- if I could just --
24 JUSTICE SOTOMAYOR: No, no, go ahead.
25 JUSTICE KAGAN: You know, I take the

1 point that there are a lot of algorithms that
2 are not going to produce pro-ISIS content and
3 that won't create a problem under this statute,
4 but maybe they'll produce defamatory content or
5 maybe they'll produce content that violates some
6 other law.
7 And your -- your argument can't be
8 limited to this one statute. It has to extend
9 to any number of harms that can be done by -- by
10 speech and -- and so by the organization of
11 speech in ways that basically every provider
12 uses.
13 MR. SCHNAPPER: Well, it -- if I might
14 turn to the example of what you said, referred
15 to, an algorithm that produces defamation. I
16 may be paraphrasing that wrong.
17 If the -- if the -- let's say the
18 algorithm generates a recommendation -- a --
19 a -- a face -- a thumbnail that on its face
20 is -- is benign, it just says interesting
21 information about Frank, you go there, and it's
22 defamatory.
23 The defendant's not responsible -- or
24 excuse me -- the defense applies to the video
25 itself that you saw. The question would be

1 whether the thumbnail was actionable. And under
2 -- in most circumstances, thumbnails aren't
3 going to be actionable.
4 In addition, the -- the thumbnails
5 typically include a snippet from a -- a video or
6 a text or whatever. If the snippet itself were
7 defamatory, again, the defense -- the statutory
8 defense would apply because what was being
9 displayed was third-party content. And so the
10 statute still applies there.
11 JUSTICE ALITO: I suppose that Google
12 could -- YouTube could display these thumbnails
13 purely at random. But, if it does anything than
14 displaying them purely at random, isn't it
15 organizing and presenting information to people
16 who access YouTube?
17 MR. SCHNAPPER: Yes, but --
18 JUSTICE ALITO: All right.
19 MR. SCHNAPPER: -- that doesn't put it
20 within the scope of the statute.
21 JUSTICE ALITO: Well, does that --
22 does that constitute publishing?
23 MR. SCHNAPPER: Yes. So they would --
24 JUSTICE ALITO: It does?
25 MR. SCHNAPPER: -- they would be

1 publishing -- they would be publishing the --
2 the thumbnail.
3 JUSTICE ALITO: Right.
4 MR. SCHNAPPER: But -- but, if the --
5 if the thumbnail isn't itself -- if -- if the --
6 if the -- the way they're using it is -- is --
7 is encouraging people to engage --
8 JUSTICE ALITO: Well, that's a
9 different question, though, isn't it? I -- I
10 don't know where you're drawing the line.
11 That's the problem.
12 MR. SCHNAPPER: Oh, I see, I see, I
13 see.
14 JUSTICE ALITO: That's the problem
15 that I see.
16 MR. SCHNAPPER: Oh.
17 JUSTICE ALITO: Unless you're --
18 you're saying that the publishing -- the
19 publication requirement is satisfied under all
20 circumstances, unless the thumbnails are
21 presented purely at random.
22 MR. SCHNAPPER: It's publication even
23 if it's at random, but the -- but the -- the --
24 the injury in the hypothetical we're talking
25 about about ISIS doesn't follow from the content

1 of the thumbnail. The thumbnail would typically
2 be fairly benign. The harm comes --
3 JUSTICE ALITO: Yeah, but in every
4 instance, in those instances where the thumbnail
5 is benign, that's not a concern for purposes of
6 this case, but in all those instances where some
7 plaintiff might have some cause of action based
8 on the content of the video that has been posted
9 --
10 MR. SCHNAPPER: There would have to be
11 a cause of action, as we assert there is in
12 JASTA, for encouraging people to go look at the
13 video. That's a fairly uncommon form of cause
14 of action.
15 The cause of action -- insofar as the
16 plaintiff asserts a cause of action based on the
17 video itself, that's within the -- that's --
18 that you've been sent to, that's within the
19 scope of the defense.
20 JUSTICE JACKSON: And is that because
21 of the way in which you're interpreting the
22 statute? I mean, can we -- can we back up a
23 little bit and try to at least help me get my
24 mind around your argument about how we should
25 read the text of the statute?

1 I took your brief to be arguing and
2 that of those who support you that the statute
3 really is about one kind of publishing conduct
4 -- conduct, and that is the failure to block or
5 screen offensive content.
6 Am I right about that? In other
7 words, what you say is covered by Section 230
8 and that Google could, like -- could rightly
9 claim immunity for is a claim that there was
10 something defective about their ability to
11 screen or block content, that the content is up
12 there and you should be liable for it?
13 MR. SCHNAPPER: I -- I think we --
14 we've -- I -- I think that's not our claim.
15 JUSTICE JACKSON: Okay.
16 MR. SCHNAPPER: I think we are trying
17 to distinguish between liability for what's in
18 the content that's on their websites that you
19 could access and actions they take to encourage
20 you to go look at it.
21 JUSTICE JACKSON: Yes, yes, that's
22 your claim. I'm just trying to --
23 MR. SCHNAPPER: It's the encouragement
24 that we're --
25 JUSTICE JACKSON: -- understand how

1 you read the statute. Your -- the statute, you
2 say, covers only scenarios in which the claim
3 that's being made is that there's offensive
4 content on the website, that you didn't take it
5 down, that, you know, you failed to screen it
6 out, but if you're making a claim that you're
7 encouraging people to look at this content,
8 that's something different, that's the claim
9 you're making, and it's not covered by the
10 statute.
11 MR. SCHNAPPER: That's our -- that's
12 the distinction --
13 JUSTICE JACKSON: All right.
14 MR. SCHNAPPER: -- we're trying to
15 draw. I mean, it -- the distinction is
16 illustrated by the e-mail in the Dyroff case,
17 which -- which is the precedent that -- that got
18 us here in the Ninth Circuit.
19 In that case, there was a, I think,
20 26-word -- 26-word e-mail from the website to an
21 individual which read something like there's
22 something new that's been posted to the question
23 where can I buy heroin in Jacksonville, Florida.
24 To access it, use this URL or use this URL.
25 It's our contention that that is

1 outside the protection of the statute.
2 JUSTICE JACKSON: But is that really
3 different -- I guess I'm trying -- so they would
4 argue, I think, that even assuming that the
5 statute only covered the kinds of things that
6 you say it covers, you know, defective blocking
7 and screening, meaning there's still offensive
8 stuff on your website and you should be liable
9 for it, I think they would say that to the
10 extent your claim is talking about their way --
11 their algorithm that presents the information,
12 it's really the same thing, that you're -- that
13 it reduces -- it's tantamount to saying we
14 haven't, you know, blocked this information,
15 it's still on the website, because algorithms
16 are the way in which the information is
17 presented.
18 MR. SCHNAPPER: So, to try and make
19 clear, as I may not have done that well, the
20 distinction we're drawing the -- our claim is
21 not that they did an inadequate job of block --
22 of -- of keeping things off their -- the --
23 their computers that you can access from -- from
24 outside or from failure to -- to block it.
25 It's that that's the -- that's the

1 heartland of the statute. What we're saying is
2 that insofar as they were encouraging people to
3 go look at things, that's what's outside the
4 protection of the statute, not that the stuff
5 was there.
6 If they stopped recommending things
7 tomorrow and -- and all sorts of horrible stuff
8 was on their website, as far as we read the
9 statute, they're fine. It's the recommendation
10 practice that we think is actionable.
11 JUSTICE SOTOMAYOR: Can I break down
12 your complaint a moment? There -- the vast
13 majority of it is paragraphs after paragraphs
14 after paragraph that says they're liable because
15 they failed to take ISIS off their website. I
16 think, as I'm listening to you today, you seem
17 to have abandoned that and -- and are saying
18 they don't have to take it off their website.
19 MR. SCHNAPPER: That --
20 JUSTICE SOTOMAYOR: Am I correct about
21 that?
22 MR. SCHNAPPER: That -- that's exactly
23 right. That -- that --
24 JUSTICE SOTOMAYOR: Right. So that
25 can't be --

1 MR. SCHNAPPER: -- is the way we've
2 framed the question presented.
3 JUSTICE SOTOMAYOR: So that can't be
4 --
5 MR. SCHNAPPER: We did not advance
6 that claim.
7 JUSTICE SOTOMAYOR: So you're
8 abandoning that claim, so that can't be aiding
9 and abetting. So I think I'm listening to you,
10 and the only aiding and abetting that you're
11 arguing is the recommendation, correct?
12 MR. SCHNAPPER: That's correct.
13 JUSTICE SOTOMAYOR: You're not arguing
14 that they're -- some of these providers create
15 chat rooms or put people together, users
16 together. You're not claiming that that's part
17 of what you're arguing about? The social
18 networking, I want to call it.
19 MR. SCHNAPPER: Well, that's not at
20 issue in this case.
21 JUSTICE SOTOMAYOR: It's in --
22 MR. SCHNAPPER: Face --
23 JUSTICE SOTOMAYOR: -- tomorrow's
24 case? All right.
25 MR. SCHNAPPER: Face -- if I can be

1 more specific --

2 JUSTICE SOTOMAYOR: All right. So

3 you're limiting -- you're limiting your --

4 MR. SCHNAPPER: -- I mean, Facebook --

5 Facebook does that.

6 JUSTICE SOTOMAYOR: All right.

7 MR. SCHNAPPER: Facebook recommends

8 people --

9 JUSTICE SOTOMAYOR: Right.

10 MR. SCHNAPPER: -- which is very

11 difficult to find within the four walls of the

12 statute. Google's created a lot of things but

13 so far not --

14 JUSTICE SOTOMAYOR: But -- but you're

15 not claiming that in this case?

16 MR. SCHNAPPER: Not in -- it's not

17 what --

18 JUSTICE SOTOMAYOR: You're just

19 focusing --

20 MR. SCHNAPPER: No. This is about

21 content. It's not about --

22 JUSTICE SOTOMAYOR: This is about

23 content. And I just want to focus your

24 complaint so I understand it very clearly.

25 You're saying the -- the YouTube or the "Next

1 up" feature of the algorithm that says you
2 viewed this and so you might like this, it's
3 "you might like this" that's the aiding and
4 abetting?
5 MR. SCHNAPPER: Uh --
6 JUSTICE SOTOMAYOR: What -- what part
7 of what they're doing? Because, I mean, you --
8 you -- whoever the user is types in something,
9 they get an ISIS video, you say that's okay --
10 they can't be liable for you, the -- me, the
11 viewer, looking at the ISIS vehicle. But the
12 internet providers can be liable for what?
13 MR. SCHNAPPER: Okay. So they're --
14 they're --
15 JUSTICE SOTOMAYOR: For showing me the
16 next video that's similar to that?
17 MR. SCHNAPPER: All right. They're --
18 they're -- it would be helpful perhaps if I
19 distinguish between two kinds of practices that
20 -- that go on at YouTube. The complaint doesn't
21 describe them in detail, but we're fairly
22 familiar with them. So what we can talk --
23 JUSTICE SOTOMAYOR: I'm glad, but I'm
24 going to be to look at complaint because it can
25 only survive if the complaint is adequate. So

1 you're going to have to tell me where in the
2 complaint you're saying this if I'm going to
3 think about holding them liable. So --
4 MR. SCHNAPPER: I'm about three
5 questions --
6 JUSTICE SOTOMAYOR: -- you're going to
7 have to separate out the two things then.
8 MR. SCHNAPPER: Okay. I'm about three
9 questions behind. Let me ---
10 JUSTICE SOTOMAYOR: All right.
11 MR. SCHNAPPER: -- let me try and do
12 my best here. So what we've been talking about
13 up until now is the use of -- of thumbnails to
14 encourage people to look at content -- people
15 who haven't clicked on any video yet. And our
16 contention is the use of thumbnails is -- is the
17 same thing under the statute as sending someone
18 an e-mail and saying: You might like to look at
19 this new video.
20 Now the "up next" feature is a
21 different problem, and the problem there is --
22 is that when you click on one video and you pick
23 that one, YouTube will automatically keep
24 sending you more videos which you haven't asked
25 for.

1 That, in our view, runs afoul of a
2 different element of the statutory defense,
3 which is that they be acting as an interactive
4 computer service. And when they go beyond
5 delivering to you what you've asked for, to
6 start sending things you haven't asked for, our
7 contention is that they're no longer acting as
8 an interactive computer service. The difference
9 --
10 JUSTICE SOTOMAYOR: All right. So,
11 even if I accept that you're right that sending
12 you unrequested things that are similar to what
13 you've viewed, whether it's a thumbnail or an
14 e-mail, how does that become aiding and
15 abetting? I'm going back to Justice Thomas's
16 question, okay, which is, if they aren't
17 purposely creating their algorithm in some way
18 to feature ISIS videos, if they're -- I mean, I
19 can really see that an internet provider who was
20 in cahoots with ISIS provided them with an
21 algorithm that would take anybody in the world
22 and find them for them and -- and do recruiting
23 of people by showing them other videos that will
24 lead them to ISIS, that's an intentional act,
25 and I could see 230 not going that far.

1 I guess the question is, how do you
2 get yourself from a neutral algorithm to an
3 aiding and abetting --
4 MR. SCHNAPPER: Right.
5 JUSTICE SOTOMAYOR: -- an intent,
6 knowledge? There has to be some intent to aid
7 and abet. You have to have knowledge that
8 you're doing this.
9 MR. SCHNAPPER: Yes.
10 JUSTICE SOTOMAYOR: So how do you get
11 there?
12 MR. SCHNAPPER: So the -- the -- if --
13 if the algorithm recommends an ISIS video or it
14 automatically plays it, that -- as we'll see
15 tomorrow, that with -- by -- in itself isn't
16 going to satisfy aiding and abetting.
17 Aiding and abetting requires knowledge
18 that it's happening. So the elements of the
19 aiding and abetting claim, which we'll be
20 talking about tomorrow, address the question
21 you're asking.
22 If -- if this was teed up, if they
23 didn't know it was happening, and the other
24 elements of an aiding-and-abetting claim were
25 present, they would not be liable for aiding and

1 abetting.

2 CHIEF JUSTICE ROBERTS: Thank you,

3 counsel.

4 Just one short question. Your -- your

5 friend on the other side presented an analogy

6 that she thought would be helpful, which -- a

7 book seller that has a table with sports books

8 on it, and somebody comes in and says, I'm

9 looking for the book about, you know, Roger

10 Maris, and the bookseller says, well, it's over

11 there on the table with the other sports books.

12 Isn't that analogous to what's

13 happening here? You type in ISIS --

14 MR. SCHNAPPER: I'm not sure -- I'm

15 not sure where that -- that gets us. I mean, it

16 wouldn't be any different than sending an -- an

17 e-mail saying that.

18 CHIEF JUSTICE ROBERTS: Well, we'll

19 figure out where we get -- it gets us in a

20 minute. But I just want to know if you think

21 that's a good -- a good analogy.

22 MR. SCHNAPPER: I -- I -- I'm a little

23 concerned to know where it's taking me. It's a

24 -- it's an analogy of --

25 (Laughter.)

1 MR. SCHNAPPER: -- it's an analogy of
2 sorts.
3 CHIEF JUSTICE ROBERTS: That's what we
4 call -- that's what we call questions.
5 MR. SCHNAPPER: But -- but I still --
6 I mean, I'm going to -- at some point, I'm going
7 to go yes, but you still have to fit it within
8 the four walls of the statute. Perhaps you
9 could -- you could tell me what lies ahead. I
10 think I could -- I mean, sure, it's an analogy
11 of sorts, but --
12 (Laughter.)
13 CHIEF JUSTICE ROBERTS: What lies
14 ahead is, "I give up, Your Honor."
15 MR. SCHNAPPER: -- but I would like to
16 know what it leads up to. Yes.
17 CHIEF JUSTICE ROBERTS: Yeah.
18 MR. SCHNAPPER: Yeah. But --
19 CHIEF JUSTICE ROBERTS: No, what lies
20 ahead is the idea that you could look at that
21 and say it's not pitching something in
22 particular to the person who's made the request.
23 It is recognizing that it's a request about a
24 particular subject matter and it's there on the
25 table, and they might want to look at that or

1 they may not want to look at it.
2 But it's really just a 21st-century
3 version of what has taken place for a long time
4 in many contexts, which, when you ask a
5 question, people are putting together a group of
6 things, not necessarily precisely answering your
7 question. I mean, if somebody said --
8 MR. SCHNAPPER: Yes -- no, I -- I --
9 all right. I think -- I think I know where
10 we're going here.
11 The -- insofar as I -- I go to YouTube
12 and I say show me a cat -- you know, it's a
13 little more complicated than this -- but show me
14 -- show -- tell me what cat videos you have, and
15 in responding to that, they're --
16 CHIEF JUSTICE ROBERTS: Sure. That's
17 an easy case. They give you a bunch of cat
18 videos. You don't have any complaint about
19 something like that.
20 In this case, if they put in
21 something, say, show me ISIS videos, they would
22 get a bunch of ISIS videos, and you don't have
23 any objection to that given the way the search
24 was phrased.
25 MR. SCHNAPPER: It -- I have to answer

1 that with precision. If I say, play for me an
2 ISIS video, and they just directly play the
3 video, then what they've done falls within the
4 language of the statute. It's requested, it's
5 purely third-party content, and I would try and
6 be hold -- trying to be holding them liable for
7 displaying that content.
8 But what actually has happened -- and
9 this is maybe analogous to what goes on to some
10 extent at Twitter, where they might actually
11 literally just show you the thing. But what's
12 happening at YouTube is they're not doing that.
13 I type in ISIS video, and there are
14 going to be a catalogue of thumbnails which they
15 created. It's as if I went into the bookstore
16 and said, I'm interested in sports books, and
17 they said, we've got this catalogue which we
18 wrote of sports books, sports books we have
19 here, and handed that to me. They created that
20 content.
21 And -- and -- and if you publish
22 content you've created, you're not within the
23 four walls of the statute. So a lot depends on
24 exactly --
25 CHIEF JUSTICE ROBERTS: But you would

1 not -- you would not -- under your theory, they
2 would not be liable for the content of the
3 books, they'd be liable for the catalogue?
4 MR. SCHNAPPER: By -- by -- by
5 providing the catalogue.
6 CHIEF JUSTICE ROBERTS: Okay. Thank
7 you.
8 Justice Thomas, anything further?
9 JUSTICE THOMAS: What if the --
10 YouTube, instead of automatically providing this
11 list, which is hard -- it's hard for me because
12 I don't see this as -- I see these as
13 suggestions and not really recommendations
14 because they don't really comment on them.
15 But what if you had to click on
16 something like "For more like this, click here"?
17 Would that also be, as far as you're concerned,
18 aiding and abetting or outside this statute?
19 MR. SCHNAPPER: It's -- so you --
20 you've played one video and they say click here
21 to see another one?
22 JUSTICE THOMAS: No, click here if you
23 want suggestions for more like this.
24 MR. SCHNAPPER: No, suggestions are --
25 depending how it happens. Let's say they say

1 send me more -- show me more thumbnails. It's
2 outside the statute.
3 And if I might come back to an earlier
4 part of what's embedded in your question, we
5 aren't asking the Court to adopt a rule that's
6 about recommendations versus suggestions.
7 What we're suggesting -- what -- what
8 we're arguing is -- is that this -- is that you
9 take the normal standards in each of the
10 elements and you apply it to what's going on.
11 It doesn't -- it doesn't matter if they're
12 encouraging it.
13 If -- if -- in terms of aiding and
14 abetting, if someone comes to me and says what's
15 al-Baghdadi's phone call -- phone number, I'd
16 like to call him, and I give him the phone
17 number, I'm aiding and abetting even if I'm -- I
18 don't say, and I hope you'll join ISIS.
19 Whether we label it a recommendation
20 or not on our view is not the issue here. We
21 tried to say that in our brief.
22 JUSTICE THOMAS: Thank you.
23 MR. SCHNAPPER: I don't -- was that
24 responsive? I'm not --
25 JUSTICE THOMAS: Well, it's

1 responsive, but I don't understand it.
2 (Laughter.)
3 JUSTICE THOMAS: You called -- I mean,
4 if you called Information and asked for
5 al-Baghdadi's number and they give it to you, I
6 don't see how that's aiding and abetting.
7 And I don't understand how a neutral
8 suggestion about something that you've expressed
9 an interest in is aiding and abetting. I just
10 don't -- I don't understand it.
11 And I'm trying to get you to explain
12 to us how something that is standard on YouTube
13 for virtually anything that you have an interest
14 in suddenly amounts to aiding and abetting
15 because you're in the ISIS category.
16 MR. SCHNAPPER: Well, again, I'll be
17 answering that probably again tomorrow, but as
18 little -- what you describe without more
19 probably wouldn't.
20 But, as you'll -- as we'll learn
21 tomorrow, the circumstances are far different
22 than that, that these -- YouTube and these other
23 companies were repeatedly told by government
24 officials, by the media, dozens of times that
25 this was going on, and they didn't do any --

1 they did almost nothing about it.
2 That's very different than providing
3 one phone number through Information.
4 JUSTICE THOMAS: Well, I mean, did --
5 MR. SCHNAPPER: So it goes to the
6 scope of JASTA, not to 230.
7 JUSTICE THOMAS: So we've gone from
8 recommendation to inaction being the source of
9 the problem. And this is what I'm -- you know,
10 the -- I understand you're putting it in
11 context, but I -- it's hard for me to -- also to
12 understand where this obligation to take
13 specific actions can lead to an
14 aiding-and-abetting claim.
15 MR. SCHNAPPER: Well, the -- the
16 interconnection in this case is that -- that
17 we're focusing on the recommendation function,
18 that they're affirmatively recommending or
19 suggesting ISIS content, and it's -- and it's
20 not mere inaction.
21 Mere inaction might work under aiding
22 and abetting, but we'll get there tomorrow, but
23 -- but the claim that we're focusing on today is
24 that, in fact, they're affirmatively
25 recommending things. You turn on your computer

1 and the -- and the -- the -- the computers at --
2 at YouTube send you stuff you didn't ask them
3 for. They just send you stuff. It's no
4 different than if they were sending you e-mails.
5 That's affirmative conduct.
6 CHIEF JUSTICE ROBERTS: Justice Alito?
7 JUSTICE ALITO: I'm afraid I'm
8 completely confused by whatever argument you're
9 making at the present time.
10 So, if someone goes on YouTube and
11 puts in ISIS videos and they show thumbnails of
12 ISIS videos -- and don't -- don't -- don't tell
13 me anything about the substantive underlying
14 tort claim -- if the person is -- if -- if
15 YouTube is sued for doing that, is it acting as
16 a publisher simply by displaying these
17 thumbnails of ISIS videos after a search for
18 ISIS videos?
19 MR. SCHNAPPER: It is acting as a
20 publisher but of something that they helped to
21 create because the thumbnail is a joint creation
22 that involves materials from a third party and a
23 URL from them and some other things.
24 JUSTICE ALITO: So, if YouTube uses
25 thumbnails at all, it is acting as a publisher

1 with respect to every thumbnail that it
2 displays?
3 MR. SCHNAPPER: Yes. Yes. They're --
4 they're publishing the thumbnails. And the
5 question is, are the thumbnails third-party
6 content, or are they content they've created?
7 And the problem is they are content.
8 JUSTICE ALITO: Yeah, I mean, if
9 that's your argument, then you're really arguing
10 that -- that this statute does not provide
11 protection against a suit that is in substance
12 based on the third-party-provided content.
13 MR. SCHNAPPER: No, we're -- we're
14 basing the -- I'm sorry. I don't mean to be so
15 --
16 JUSTICE ALITO: Okay.
17 MR. SCHNAPPER: That -- that -- that
18 they -- the particular business model they have
19 involves using this -- these thumbnails, which
20 are materials they've in part created to --
21 to -- to operate.
22 Let me --
23 JUSTICE ALITO: So they shouldn't use
24 thumbnails at all? If they want protection
25 under the statute, they shouldn't use

1 thumbnails?

2 MR. SCHNAPPER: Let me -- let --

3 that's -- that's the problem they have with the

4 way the statute's written. So, if I -- if I may

5 give -- give us a --

6 JUSTICE ALITO: So is there any other

7 way they could organize themselves without using

8 thumbnails? I suppose, if you type in "I want

9 ISIS videos," they can just put ISIS video 1,

10 ISIS video 2, and so forth.

11 MR. SCHNAPPER: That's the technical

12 problem they have.

13 JUSTICE ALITO: Well, would that be

14 acting as a publisher if they did that?

15 MR. SCHNAPPER: Yes, but they'd be

16 publishing third-party content because the video

17 itself is the content. But if I might -- if I

18 might respond --

19 JUSTICE ALITO: Okay. I just -- I --

20 I -- I have one final question. It's a

21 technical question and probably better addressed

22 to Ms. Blatt.

23 Is it your contention that everybody

24 who uses YouTube and searches for a video

25 involving a particular subject will be

1 automatically presented with thumbnails that are
2 related to that regardless of that user's
3 YouTube setting, preferences, preferences that
4 YouTube allows you to --
5 MR. SCHNAPPER: I -- I -- I don't -- I
6 don't know. The practices are too varied. I
7 don't know. But, if I -- if I --
8 JUSTICE ALITO: You don't know if
9 somebody uses YouTube, they can -- can -- do
10 they have -- is there a function that allows
11 them not to be presented with similar videos?
12 MR. SCHNAPPER: I -- I don't know. I
13 mean, I've gone onto -- on YouTube and never
14 seen that, but I -- I wouldn't --
15 JUSTICE ALITO: Uh-huh. Okay.
16 MR. SCHNAPPER: The functions are
17 widely varied. But if I might make a broader
18 point about the -- the way you framed
19 that question?
20 JUSTICE ALITO: Well, I -- I think
21 you -- you answered my question. Thank you.
22 CHIEF JUSTICE ROBERTS: Justice
23 Sotomayor?
24 JUSTICE SOTOMAYOR: I -- I do. This
25 has gone further than I thought or your position

1 has gone further than I thought.

2 "No provider or user of an interactive

3 computer service shall be treated as the

4 publisher or speaker of any information provided

5 by another information content provider."

6 And I thought that you started by

7 telling me, if I put in ISIS and they just give

8 me a download of information, the internet

9 provider is not liable, correct, under (c)(1)?

10 I just read to you (c)(1), correct?

11 MR. SCHNAPPER: It -- it depends what

12 the information is they give you.

13 JUSTICE SOTOMAYOR: If they give me

14 everything that has --

15 MR. SCHNAPPER: If they give you

16 information they've created --

17 JUSTICE SOTOMAYOR: No, they have --

18 MR. SCHNAPPER: -- they're not

19 protected.

20 JUSTICE SOTOMAYOR: So you are going

21 to the extreme. Assume I don't think you're

22 right, I think you're wrong, that if I put in a

23 search and they give me materials that they

24 believe answers my search, no matter how they

25 organize it, that they're okay. Do you

1 survive -- does your complaint survive if I
2 believe 230 goes that far?
3 MR. SCHNAPPER: So it depends on what
4 materials they present you with. If -- if all
5 they presented you with -- Twitter would maybe
6 be a cleaner example -- is materials created by
7 third parties, they -- what they've published is
8 third-party materials, and they're good.
9 If they present you with things that
10 they wrote, at the other extreme, then they're
11 not protected because what they presented is not
12 third-party content.
13 JUSTICE SOTOMAYOR: So why do you
14 think the thumbnails are -- I type it in, they
15 give me a thumbnail of everything they think
16 answers my inquiry, the suggestion box.
17 MR. SCHNAPPER: Yes.
18 JUSTICE SOTOMAYOR: Why are they
19 liable?
20 MR. SCHNAPPER: Because a thumbnail is
21 not exclusively third-party material. It's a
22 joint operation, and you can find -- if you look
23 at the thumbnail, it'll have a picture, which
24 comes from the third party, it has an embedded
25 URL, which comes from the defendant, and it

1 might have some information below the --
2 JUSTICE SOTOMAYOR: The URL tells you
3 where to find it, correct?
4 MR. SCHNAPPER: Sorry?
5 JUSTICE SOTOMAYOR: The URL tells you
6 where to find it? It's a computer language that
7 tells you this is where this is located?
8 MR. SCHNAPPER: Yes, but it is
9 information within the meaning of the statute.
10 This is no different than an -- an e-mail which
11 writes it out for you.
12 JUSTICE SOTOMAYOR: If I don't accept
13 your line --
14 MR. SCHNAPPER: Yeah.
15 JUSTICE SOTOMAYOR: -- assume that
16 you've lost on the width of that line.
17 MR. SCHNAPPER: Yes.
18 JUSTICE SOTOMAYOR: I gave you an
19 example earlier of an internet provider working
20 directly with ISIS and doing an algorithm that
21 -- teaching them how to do an algorithm that
22 will look for everybody who is just
23 ISIS-related. There's more a collusion in the
24 creation than a neutral algorithm.
25 How do I draw the line between not

1 accepting your point about the thumbnails and
2 going to the other extreme of active collusion?
3 Because there has to be a line somewhere in
4 between. It can't be merely because you're a
5 computer person that you can create an algorithm
6 that discriminates against people. You have no
7 problem with that, right? If a -- if a --
8 MR. SCHNAPPER: The -- the writing of
9 the algorithm would probably constitute aiding
10 and abetting --
11 JUSTICE SOTOMAYOR: Exactly. If you
12 write one that discriminated against people for
13 a user, you're probably going to be liable.
14 MR. SCHNAPPER: I'm not sure, as we
15 describe it, it would fall outside the -- the
16 four walls of the defense. If you write an
17 algorithm that -- that in response -- that in --
18 that -- it -- it's -- it's -- the -- the way you
19 implement it's --
20 JUSTICE SOTOMAYOR: If you write an
21 algorithm --
22 MR. SCHNAPPER: -- going to put you
23 outside the defense. Yes.
24 JUSTICE SOTOMAYOR: -- if you write an
25 algorithm for someone that, in its structure,

1 ensures the discrimination between people, a
2 dating app, for example, someone comes to you
3 and says, I'm going to create an algorithm that
4 inherently discriminates against people, it
5 won't match black people to white people, Asian
6 people to Hispanics, it's going to discriminate,
7 you would say that internet provider is
8 discriminating, correct?
9 MR. SCHNAPPER: I would -- what they
10 did -- the way the distinction played out would
11 be important, though. They would -- you know,
12 if -- if they're -- they would have to fall
13 outside of one of the elements of the claim.
14 It's hard to do this in the abstract.
15 JUSTICE SOTOMAYOR: All right.
16 CHIEF JUSTICE ROBERTS: Justice Kagan?
17 JUSTICE KAGAN: Mr. Schnapper, can I
18 give you three kinds of practices and you tell
19 me which gets 230 protection and which doesn't?
20 So one is the YouTube practices that
21 you're complaining of, and we know you think
22 that that does not get 230 protection.
23 A second would be Facebook or Twitter
24 or any entity that essentially prioritizes
25 items. So you're on Facebook and certain items

1 are prioritized on your news feed, or certain
2 tweets are prioritized on your Twitter feed, all
3 right, and that there's some algorithm that's
4 doing that and that's amplifying certain
5 messages rather than other messages on your
6 feed. That's the second.
7 And then the third is just a regular
8 search engine. You know, you put in a search
9 and something comes back, and in some ways, you
10 know, that's one giant recommendation system.
11 Here's the first item you should look at.
12 Here's the second item you should look at.
13 So are all three of those not
14 protected, or what happens to my second and
15 third? Are they protected or not protected?
16 And if they're -- and if they are protected,
17 what's the difference between them and your
18 practices?
19 MR. SCHNAPPER: Certainly. So let me
20 -- let me start with the search engine. The --
21 the -- there's a lot of discussion on search
22 engines, but there's not a specific provision in
23 the statute that says search engines are
24 protected. The question is, do they fit within
25 the language of the statute?

1 So, if I ask a search engine for
2 stories about John Doe and it gives me a list
3 and, if I click on one of them, it turns out to
4 be defamatory, they're not liable because
5 they --
6 JUSTICE KAGAN: Well, they just gave
7 it to you. It's the -- the first thing. They
8 just prioritized it. They think it's really a
9 great one to click on.
10 MR. SCHNAPPER: The mere prior --
11 there are three -- are multiple questions here.
12 First, are they liable just because what you --
13 you -- you clicked on turned out to be
14 defamatory? The answer we think is no.
15 Secondly, what if the snippet that
16 they took from the John Doe document said John
17 Doe is a shoplifter? And the answer is they're
18 not liable because they didn't write that. It's
19 publishing third-party content.
20 The third question is, could they be
21 liable for the way they prioritize things? And
22 the answer is I think so. It's going to depend
23 how -- what happened. And the example, I could
24 --
25 JUSTICE KAGAN: So even all the way to

1 the -- to the straight search engine, that they
2 could be liable for their prioritization system?
3 MR. SCHNAPPER: Yes. There was -- let
4 me --
5 JUSTICE KAGAN: Okay.
6 MR. SCHNAPPER: If I might continue --
7 if I --
8 JUSTICE KAGAN: No, I -- I appreciate
9 the -- the -- go ahead. I'm sorry.
10 MR. SCHNAPPER: Those are the facts
11 which led the European Union to fine Google 2.3
12 billion euros, because they used prioritization
13 to wipe out competition --
14 JUSTICE KAGAN: Okay. So here's --
15 MR. SCHNAPPER: -- for things they
16 were selling.
17 JUSTICE KAGAN: Yeah, so I don't think
18 that a court did it over there, and I think that
19 that's my concern, is I can imagine a world
20 where you're right that none of this stuff gets
21 protection. And, you know, every other industry
22 has to internalize the costs of its conduct.
23 Why is it that the tech industry gets a pass? A
24 little bit unclear.
25 On the other hand, I mean, we're a

1 court. We really don't know about these things.
2 You know, these are not like the nine greatest
3 experts on the internet.
4 (Laughter.)
5 JUSTICE KAGAN: And I don't have to --
6 I don't have to accept all Ms. Blatt's "the sky
7 is falling" stuff to accept something about,
8 boy, there is a lot of uncertainty about going
9 the way you would have us go, in part, just
10 because of the difficulty of drawing lines in
11 this area and just because of the fact that,
12 once we go with you, all of a sudden we're
13 finding that Google isn't protected. And maybe
14 Congress should want that system, but isn't that
15 something for Congress to do, not the Court?
16 MR. SCHNAPPER: Well, I -- I think the
17 -- the -- the -- the line-drawing problems are
18 real. No one minimizes that. I think that the
19 task for this Court is to apply the statute the
20 way it was written.
21 And if I might return to a point that
22 Justice Alito made, much of what goes on now
23 didn't exist in 1996. The statute was written
24 to address one or two very specific problems
25 about defamation cases, and it drew lines around

1 certain kind of things and it protected those.
2 It did not and could not have
3 written -- been written in such a way to protect
4 everything else that might come along that was
5 highly desirable. Congress didn't adopt a
6 regulatory scheme. They protected a few things.
7 It will inevitably happen, it has happened, that
8 companies have devised practices which are maybe
9 highly laudable, but they don't fit within the
10 four walls of the statute.
11 That will continue to happen no matter
12 what happens -- what you do. And the answer is,
13 when -- when someone devises some new -- some
14 new practice that may be highly desirable but
15 doesn't fit within the four walls of the
16 statute, the -- the industry has to go back to
17 Congress and say: We need you to broaden the
18 statute because you wrote this to protect chat
19 rooms in 1996, and we want to do something that
20 doesn't fit within the statutes.
21 And -- and using thumbnails would be a
22 perfect example of that.
23 JUSTICE KAGAN: Thank you.
24 CHIEF JUSTICE ROBERTS: Justice
25 Gorsuch?

1 JUSTICE GORSUCH: Mr. Schnapper, I
2 just want to make sure I understand, as you say,
3 the statutory language and how this case fits
4 with it, and if we could start with Section
5 230(f)(4), which defines the term "access
6 software provider." It includes, among other
7 things, "picking, choosing, analyzing, or
8 digesting content."
9 And we might in another world in our
10 First Amendment jurisprudence think of picking
11 and choosing, analyzing or digesting content as
12 content providing, but the statute seems to
13 suggest that's not what it is, it's something
14 different in this context, in this statutory
15 context, and it's protected.
16 Do you agree with that?
17 MR. SCHNAPPER: No. Let -- and I --
18 if I might explain why?
19 JUSTICE GORSUCH: Briefly.
20 MR. SCHNAPPER: I'll do my best.
21 The -- the language that you refer to in
22 Section (f)(4) doesn't apply here.
23 JUSTICE GORSUCH: No, I -- I -- I --
24 we'll get to that in a minute. But let's just
25 take that as given, okay, that I think that

1 what, say, Google does in picking, choosing,
2 analyzing, or even digesting content just makes
3 it an access software provider. Let's take that
4 as given, and so that that would normally be
5 protected activity.
6 But (f)(3) carves out a scenario where
7 you become a content provider, and that's
8 something different in my mind to picking,
9 choosing, analyzing, or digesting content, okay?
10 Let's just take those two premises as given.
11 MR. SCHNAPPER: Okay.
12 JUSTICE GORSUCH: All right? You got
13 to do something beyond picking, choosing, or
14 analyzing or digesting content, which is what
15 search engines typically do, even as I
16 understand it. You've got to do something
17 beyond that.
18 As I take your argument, you think
19 that the Ninth Circuit's "neutral tools" rule is
20 wrong because, in a post-algorithm world,
21 artificial intelligence can generate some forms
22 of content, even according to neutral rules.
23 I mean, artificial intelligence
24 generates poetry, it generates polemics today.
25 That -- that would be content that goes beyond

1 picking, choosing, analyzing, or digesting
2 content. And that is not protected.
3 Let's -- let's assume that's right,
4 okay? Then I guess the question becomes, what
5 do we do about YouTube's recommendations?
6 And -- and as I see it, we have a few
7 options. We could say that YouTube does
8 generate its own content when it makes a
9 recommendation, says "up next." We could say
10 no, that's more like picking and choosing.
11 Or we could say the Ninth Circuit's
12 "neutral tools" test was mistaken because, in
13 some circumstances, even neutral tools, like
14 algorithms, can generate through artificial
15 intelligence forms of content and that the Ninth
16 Circuit wasn't sensitive to that possibility and
17 remand the case for it to consider it -- that
18 question.
19 What's wrong with that?
20 MR. SCHNAPPER: Well, it's not our
21 theory, but it's --
22 (Laughter.)
23 MR. SCHNAPPER: -- if -- if the
24 alternative is what Ms. Blatt will be telling
25 you, I'll take it.

1 JUSTICE GORSUCH: I'm not asking you,
2 you know, hey, I'll win at any cost.
3 MR. SCHNAPPER: No, there's nothing
4 wrong with it.
5 JUSTICE GORSUCH: I'm asking you
6 what's -- what's -- whether that is a correct
7 analysis of the statutory terms you keep
8 referring us to --
9 MR. SCHNAPPER: Yes.
10 JUSTICE GORSUCH: -- or whether it is
11 not.
12 MR. SCHNAPPER: Yes, yes, yes. As --
13 as we've said, this now is close to something we
14 set out in our brief, which is that the -- that
15 the -- the algorithm could create things on its
16 own. It can create a catalogue of ISIS videos,
17 which would be analogous to a compilation under
18 Section 101 of the Copyright Act.
19 A compilation is a distinct entity,
20 it's copyrightable, even if the elements of it
21 were not. So, yes, absolutely, the software
22 could create something like that. It would not
23 be third-party content, and, therefore, it would
24 fall outside the scope of the statute.
25 JUSTICE GORSUCH: Thank you.

1 CHIEF JUSTICE ROBERTS: Justice
2 Kavanaugh?
3 JUSTICE KAVANAUGH: Just to pick up on
4 Justice Gorsuch's questions, the idea of
5 recommendations is not in the statute. And the
6 statute does refer to organization, and the
7 definition, as he was saying, of interactive
8 computer service means one that filters,
9 screens, picks, chooses, organizes content.
10 And your position, I think, would mean
11 that the very thing that makes the website an
12 interactive computer service also mean that it
13 loses the protection of 230. And just as a
14 textual and structural matter, we don't usually
15 read a statute to, in essence, defeat itself.
16 So what's your response to that?
17 MR. SCHNAPPER: My response is that
18 the text doesn't apply here. Let me explain
19 why. The -- the element in -- the -- the list
20 in -- in (f)(4) refers to only one of the three
21 kinds of interactive computer services in
22 (f)(2).
23 In (f)(2) -- and this is -- this is on
24 page 267 of the petition appendix. (f)(2) says
25 "an interactive computer service means" -- and

1 there -- it gives you three candidates, you've
2 got one of them -- "an information service, a
3 system, or an access software provider."
4 Now YouTube is one of the first two.
5 It doesn't -- it's not a software provider. The
6 definition in (f)(4) only delineates who is an
7 access software provider. It doesn't apply to
8 who's an information system or service. And
9 that was Congress's choice.
10 Congress didn't say you're an
11 interactive -- you're a service, an information
12 service or a system if you do those things. It
13 said you're only -- those things only bring you
14 within the four walls of interactive computer
15 service if you're -- if you're a software
16 provider. And -- and that made sense in the
17 context of what was happening in 1996.
18 In 1996, if you wanted to go online,
19 you would typically sign up with CompuServe or
20 Prodigy and they would literally give you
21 diskettes. They would sell -- they would be
22 selling you software.
23 And -- and this provision in (f)(4) is
24 about that activity. That's not what's
25 happening here.

1 JUSTICE KAVANAUGH: Well, just -- just
2 to go back to 1996 and maybe pick up on Justice
3 Kagan's questions earlier, it seems that you
4 continually want to focus on the precise issue
5 that was going on in 1996, but then Congress
6 drafted a broad text, and that text has been
7 unanimously read by courts of appeals over the
8 years to provide protection in this sort of
9 situation and that you now want to challenge
10 that consensus.
11 But the amici on the other side say:
12 Well, to do that, to pull back now from the
13 interpretation that's been in place would create
14 a lot of economic dislocation, would really
15 crash the digital economy with all sorts of
16 effects on workers and consumers, retirement
17 plans and what have you, and those are serious
18 concerns and concerns that Congress, if it were
19 to take a look at this and try to fashion
20 something along the lines of what you're saying,
21 could account for.
22 We are not equipped to account for
23 that. So are the predictions of problems
24 overstated? If so, how? And are we really the
25 right body to draw back from what had been the

1 text and consistent understanding in courts of
2 appeals?
3 MR. SCHNAPPER: Well, I -- our
4 position is that the text doesn't -- doesn't say
5 this. With regard to the issue of what we've
6 come to call recommendations, this isn't a
7 longstanding, well-established body of
8 precedent. It's really three decisions: the
9 decision in this case, the Dyroff decision, and
10 Force. And -- and of the eight Justices to --
11 JUSTICE KAVANAUGH: What about the
12 implications then? Go to that, the implications
13 for the economy, that you have a lot of amicus
14 briefs that we have to take seriously that say
15 this is going to cause a lot of economic
16 dislocation in the country.
17 MR. SCHNAPPER: I mean, I'd say a
18 couple things in response to that. The first
19 one is, on a close reading of the amicus briefs,
20 it's clear that they are urging the Court to
21 hold that a wide variety of different kinds of
22 things are protected. They're -- they're
23 inviting the Court to adopt a rule that
24 recommendations are protected and that whatever
25 they're doing would qualify as a recommendation.

1 But you can't --
2 JUSTICE KAVANAUGH: Well, I think
3 they're saying a recommendation is a
4 recommendation, something express. I mean,
5 your -- your whole thing is the algorithms are
6 an implied recommendation. And they're saying:
7 Well, they're not an express recommendation.
8 That -- that -- so --
9 MR. SCHNAPPER: I'm --
10 JUSTICE KAVANAUGH: But, in any event,
11 why don't we focus on the question.
12 MR. SCHNAPPER: Yes. Yes.
13 JUSTICE KAVANAUGH: Do you -- do you
14 challenge the -- the basic point?
15 MR. SCHNAPPER: I think -- I think --
16 yes. I -- I --
17 JUSTICE KAVANAUGH: And so --
18 MR. SCHNAPPER: We -- we do, on -- on
19 a couple grounds. One of them is that I -- I'm
20 not sure all these decisions -- these briefs are
21 distinguishing as we have today between
22 liability because of the content of third-party
23 materials and the recommendation function
24 itself.
25 A -- a distinction between more and

1 less specific suggestions --

2 JUSTICE KAVANAUGH: What would the

3 difference be in liability, in damages?

4 MR. SCHNAPPER: I'm sorry, between

5 which two things?

6 JUSTICE KAVANAUGH: The -- the

7 third-party content and the recommendation.

8 MR. SCHNAPPER: Well, most of the time

9 the recommendations isn't going to --

10 JUSTICE KAVANAUGH: Like how would the

11 money at the end of the day differ if you are

12 successful?

13 MR. SCHNAPPER: It might not be. But

14 most recommendations just aren't actionable. I

15 mean, there -- there is no cause of action for

16 telling someone to look at a book that has

17 something defamatory in it.

18 JASTA, the statute we're talking about

19 tomorrow, is unusual in that recommendations

20 could run you afoul of the statute. But there

21 are very few claims that are like that, so

22 it's -- it's a very different kind of -- it's --

23 situation. It's -- the -- the implications of

24 this are limited because the kinds of

25 circumstances in which a recommendation would be

1 actionable are limited.
2 JUSTICE KAVANAUGH: Thank you.
3 CHIEF JUSTICE ROBERTS: Justice
4 Barrett?
5 JUSTICE BARRETT: I'd like to take you
6 back, Mr. Schnapper, to Justice Sotomayor's
7 questions about the complaint. It seems to me
8 that the complaint in this case is materially
9 indistinguishable from the claim -- complaint in
10 tomorrow's case. Do you agree? Same aiding and
11 --
12 MR. SCHNAPPER: The complaint in which
13 case? I'm sorry.
14 JUSTICE BARRETT: In tomorrow's case,
15 in the Taamneh case, the Twitter case, and this
16 one.
17 MR. SCHNAPPER: Pretty much.
18 JUSTICE BARRETT: So they're both
19 relying on the same aiding-and-abetting theory.
20 So, if you lose tomorrow, do we even have to
21 reach the Section 230 question here? Would you
22 concede that you would lose on that ground here?
23 MR. SCHNAPPER: No. The -- the --
24 there was a motion to dismiss in tomorrow's case
25 on JASTA grounds. It didn't get decided. So,

1 if we lose tomorrow, they'll be -- the defense
2 will be free in this case to -- to move to
3 dismiss, but we'd be entitled to try to amend
4 the complaint in this case to satisfy whatever
5 standard you establish tomorrow.
6 JUSTICE BARRETT: Okay. Let me ask
7 you this. I'm switching gears now. So Section
8 230 protects not only providers but also users.
9 So I'm thinking about these recommendations.
10 Let's say I retweet an ISIS video. On your
11 theory, am I aiding and abetting and does the
12 statute protect me, or does my putting the
13 thumbs-up on it create new content?
14 MR. SCHNAPPER: I -- we don't read the
15 word "user" in -- in -- that broadly. There's
16 not been a lot of litigation about this.
17 We -- we think the word "user" is
18 there to deal with a situation in which one
19 entity accesses a -- a -- a server, YouTube, for
20 example, and then someone else uses that entity,
21 like when I go to FedEx Office, FedEx Office is
22 the user that is accessing my e-mail, and the
23 statute protects them when I look at the FedEx
24 computer and find the defamatory --
25 JUSTICE BARRETT: Well, let's say that

1 I disagree with you. Let's say I'm an entity
2 that's using the service -- the service, so I
3 count as a user. You know, my computer is
4 accessing the servers when I retweet the image.
5 On your theory, could I be liable under JASTA
6 for aiding and abetting without -- do I lose 230
7 protection?
8 MR. SCHNAPPER: Right. Right. Right.
9 JUSTICE BARRETT: Have I created new
10 content?
11 MR. SCHNAPPER: The -- whether it's
12 enough for JASTA is a separate question.
13 JUSTICE BARRETT: Okay. Right. Fair
14 enough.
15 MR. SCHNAPPER: The question is, is it
16 outside 230?
17 JUSTICE BARRETT: Is it outside of
18 230.
19 MR. SCHNAPPER: Right. And our view
20 is the statute doesn't mean anyone who's a user
21 who re -- who tweet -- who -- who pub -- conveys
22 third-party libel is protected. If you -- let's
23 say that you -- you read a book, and it says
24 John Doe is a shoplifter, and you send an e-mail
25 that says John Doe is a shoplifter, you're

1 using, you know, the internet. You're using the
2 -- the e-mail system.
3 But nobody thinks that -- that Section
4 230 gives -- is a blanket exemption for
5 defamation on the website as long as you're
6 quoting somebody else.
7 Retweeting is a very automatic way of
8 doing it, but if you start down that road, you'd
9 end up having to hold that as -- that anytime I
10 send a defamatory e-mail, I'm protected as long
11 as I'm quoting somebody else. And I don't think
12 anybody --
13 JUSTICE BARRETT: Well, I -- I guess I
14 don't understand -- I mean, let's see, I guess I
15 don't understand logically why your argument
16 wouldn't mean that I was creating new content if
17 I retweeted or if I liked it or if I said check
18 this out. Why --
19 MR. SCHNAPPER: Well -- well, you --
20 JUSTICE BARRETT: -- why wouldn't
21 that?
22 MR. SCHNAPPER: -- you would be, but
23 I'm advancing an argument that gets to the same
24 place, which is you're -- you're not a user
25 within the meaning of the statute just because

1 you use -- you go on e-mail or -- or YouTube or
2 -- or on Twitter.
3 JUSTICE BARRETT: Let's say I disagree
4 with you. Let's say that I think you're a user
5 of Twitter if you go on Twitter and you're using
6 Twitter and you retweet or you like or you say
7 check this out. On your theory, I'm not
8 protected by Section 230.
9 MR. SCHNAPPER: That's content you've
10 created.
11 JUSTICE BARRETT: That's content I've
12 created. Okay. And on the content creation
13 point, let's imagine -- it seems like you're
14 putting a whole lot of weight on the fact that
15 these are thumbnails, and so it's something that
16 YouTube separately creates.
17 MR. SCHNAPPER: Yes.
18 JUSTICE BARRETT: What if they just
19 screenshot? They just screenshot the ISIS
20 thing. They don't do the -- the thumbnail.
21 Then are they --
22 MR. SCHNAPPER: That's -- that's pure
23 third-party content.
24 JUSTICE BARRETT: That's pure third --
25 so this is just about how YouTube set it up?

1 MR. SCHNAPPER: That's -- that's --
2 that's correct in this context. And it gets
3 back to the conversation we were having earlier
4 about this is a new technology that didn't exist
5 in 1996, and rather than ask Congress to write
6 the statute to cover it, they just went ahead
7 and did it.
8 JUSTICE BARRETT: Okay. And last
9 question, turning to the statutory text. So it
10 seems to me that some the briefs in this case
11 are focusing on what it means to treat someone
12 as a publisher, treat an entity as a publisher.
13 You're not really focusing on that and the
14 traditional editorial functions argument. I
15 mean, you're really focusing on the content
16 provider argument, correct?
17 MR. SCHNAPPER: No. Well, we've
18 advanced views as to each element of the claim.
19 Our --
20 JUSTICE BARRETT: But today you've
21 really been honing in on this are you actually
22 creating content or just presenting third-party
23 content.
24 MR. SCHNAPPER: Well, I've been
25 answering -- that's where the questions --

1 JUSTICE BARRETT: Yes.
2 MR. SCHNAPPER: -- have taken us, but
3 -- but -- but our -- our view would be that
4 you're not being treated as a publisher of the
5 video just because you -- you publish the
6 thumbnail.
7 JUSTICE BARRETT: Okay. Thank you.
8 MR. SCHNAPPER: You're not being
9 harmed by the thumbnail.
10 JUSTICE BARRETT: Thank you.
11 CHIEF JUSTICE ROBERTS: Justice
12 Jackson?
13 JUSTICE JACKSON: So I guess -- I
14 guess I'm thoroughly confused, but let me -- let
15 me try to -- let me try to understand what your
16 argument is. I think that the confusion that
17 I'm feeling is arising from the possibility that
18 we're talking about two different concepts and
19 conflating them in a way.
20 I thought that Section 230 and the
21 questions that we were asking in this case today
22 was about whether there was immunity and whether
23 Google could claim the defense of immunity and
24 that that's actually different than the question
25 of whether whatever it does gives rise to

1 liability. That is, is there liability for
2 aiding and abetting? That's tomorrow's
3 question.
4 And to the extent that you keep coming
5 back to this notion of creating content or
6 whatnot, I feel like we're conflating the two in
7 a way that I'd like to just see if I can clear
8 up from my perspective.
9 Your brief says that the immunity
10 question, Section 230(c)(1)'s text is most
11 naturally read to prohibit courts from holding a
12 website liable for failing to block or remove
13 third-party content.
14 And I read the arguments in your brief
15 and I read what you said about Stratton Oakmont
16 and the sort of background, and so I thought
17 your argument was that the -- that you can only
18 claim immunity, Google, if the claim that's
19 being made against you is about your failing to
20 block or remove third-party content.
21 To the extent we are making a claim
22 about recommendations or doing anything else,
23 any of the, you know, hypotheticals that people
24 have brought up, that's outside of the scope of
25 the statute because, really, the statute is

1 narrowly tailored in a way to protect internet
2 platforms from claims about failing to block or
3 remove, right? I mean, that's what I thought
4 was happening.
5 All right. So, if that's true, then
6 all the hypotheticals and the questions about
7 are you aiding and abetting if Google, you know,
8 has a priority list or if there's
9 recommendations, maybe, but that's not in the
10 statute because we're just talking about
11 immunity. We're just talking about whether or
12 not you've made a claim for failing to block or
13 remove in this case today related to Section
14 230.
15 Am I doing too much of a separation
16 here in -- in terms of how I'm conceiving of it?
17 MR. SCHNAPPER: Well, let me
18 articulate what -- what the contention is that
19 we are advancing, and I think it's not quite the
20 way you described it. The contention we're
21 advancing is that a variety of things that we're
22 loosely characterizing as recommendations fall
23 outside of the statute.
24 JUSTICE JACKSON: Why?
25 MR. SCHNAPPER: Because, in some of

1 them, the defendant's not being treated as the
2 publisher; because, in some of them, third-party
3 content's being -- content is being created by
4 the defendant; because, in some of them, the
5 defendant's not acting as an interactive
6 computer service.
7 JUSTICE JACKSON: I see. So I -- I
8 thought -- I thought you were -- the answer to
9 why was because the statute is limited, because
10 the statute only focuses on certain kind of
11 publisher conduct, and to the extent that --
12 that they're doing anything else, recommending
13 or whatever, that's not going to be covered by
14 this statute.
15 But you're sort of saying, well, let's
16 look at what they're actually doing and it may
17 fit in or it may not. You're not sort of hewing
18 very closely to the understanding of the
19 original scope of the statute in terms of what
20 it is trying to immunize these platforms
21 against.
22 MR. SCHNAPPER: I -- I -- I think
23 we're trying to do that in somewhat more of a
24 particularized way, that is, to -- to identify
25 -- to work our way through each of the three

1 specific elements of the statute, each tied to
2 particular language, to --
3 JUSTICE JACKSON: But I've got to tell
4 you I don't see three elements in this. I mean,
5 part of me -- part of this is all the confusion,
6 I think, that has developed over time about the
7 meaning of the statement in the statute, right?
8 I don't see three elements. I see
9 literally a sentence, and the sentence in my
10 view reads as though they're trying to actually
11 direct courts to not impose publisher liability,
12 strict publisher liability, against the backdrop
13 of Stat -- of Stratton Oakmont.
14 So there's like some -- somehow we've
15 gotten to a world in which we've teased out
16 three elements and we're trying to fit it all
17 into that, when I thought there was sort of a
18 very simple, sort of straightforward way to read
19 the statute that you articulate in your brief,
20 which is this is really -- this statute, (c)(1),
21 is really just Congress trying to not
22 disincentivize these platforms for blocking and
23 screening offensive conduct.
24 And so what they said is let's look at
25 (c)(1). Let's have (c)(2). Let's have a system

1 in which a system -- a platform is not going to
2 be punished, strict liability for just having
3 offensive conduct on their website, and, if they
4 try -- if they try to screen out, we're not --
5 we're going to say you won't be responsible for
6 that either. That's (c)(2).
7 But it really doesn't speak to whether
8 you do a recommendation or whether you have an
9 algorithm that does priorities or any of these
10 other things. That's how I thought that -- that
11 at least I was looking at the statute in light
12 of its purposes and history and -- and -- and
13 Stratton Oakmont and all of that, in which case
14 I think you would win, unless your
15 recommendations argument really is just the same
16 thing as saying they are hosting ISIS videos on
17 their website.
18 MR. SCHNAPPER: Well, I -- I think --
19 I think we do have to be drawing that
20 distinction.
21 But, with regard to your question
22 about the three elements, the -- the text does
23 take you there. It says, if you track the
24 briefs probably of either side, the -- part of
25 -- we're arguing about the meaning of "treat as

1 a publisher" because that's the first couple of
2 words of the statute.
3 Then we're arguing about did they
4 create the content because "publisher" has to be
5 of -- has to be of information provided by
6 another content provider. So we have to parse
7 out the meaning of that.
8 And then it refers to the defendant as
9 an interactive computer service, and we have to
10 parse out the meaning of, well, what does that
11 mean? So we -- we are forced to -- this --
12 this -- the language of the statute has those
13 three components, and it -- it -- although the
14 overall purpose is I think as you described it,
15 the language is more complex and particularized.
16 JUSTICE JACKSON: Thank you.
17 CHIEF JUSTICE ROBERTS: Thank you,
18 counsel.
19 Mr. Stewart.
20 ORAL ARGUMENT OF MALCOLM L. STEWART
21 FOR THE UNITED STATES, AS AMICUS CURIAE,
22 SUPPORTING VACATUR
23 MR. STEWART: Thank you, Mr. Chief
24 Justice, and may it please the Court:
25 I'd like to begin by addressing the

1 Roger Maris hypothetical because I -- I think it
2 illustrates our position and the limits on our
3 position.
4 Imagine in -- in a particular state
5 there was an unusually protective law that said
6 no booksellers shall be held liable on any
7 theory for the content of any book that it
8 sells, and then the scenario that the Chief
9 Justice described occurred, the person was asked
10 where is the Roger Maris book and said it's over
11 on that table with the other sports book --
12 books.
13 Now, if the bookseller was sued for
14 making that statement, our position would be
15 there's no way textually that the immunity
16 statute would apply. This is a statement about
17 the book, not the contents of the book.
18 Now the statement "the book is over
19 there" is so obviously innocuous that it might
20 seem like pedantry to quibble about should the
21 dismissal of the suit be based on immunity or
22 for failure to state a claim. But a court, in
23 thinking about the possibility of harder cases
24 down the road, should distinguish carefully
25 between liability for the content itself,

1 liability for statements about the content.
2 And the other one other thing I would
3 say is, if the consequence of saying "it's over
4 there" was that the bookseller lost its immunity
5 for the content of the book, that would be a big
6 deal. But our position on 230(c)(1) is nothing
7 like that.
8 Our position is that the internet
9 service provider can be sued for its own
10 organizational choices, but the fact that it
11 makes organizational choices doesn't deprive it
12 of the protection it receives for liability
13 based on the third-party content.
14 I -- I welcome the Court's questions.
15 JUSTICE THOMAS: Well, I'm still
16 confused, but, what if the bookseller said,
17 "it's over there on the table with the other
18 trustworthy books"?
19 MR. STEWART: I mean, I think at that
20 point you would be asking could it conceivably
21 be an actionable tort to describe the book as
22 trustworthy.
23 JUSTICE THOMAS: Well, we're putting a
24 lot of weight on organization. But doesn't it
25 really depend on how we're organizing it and on

1 what the basis of the organization -- for
2 example, we could say this set -- you could
3 organize it on the basis of what's more
4 trustworthy than -- than something else.
5 MR. STEWART: I think that might
6 matter with respect to whether there was
7 substantive liability under the -- the
8 underlying cause of action. It -- it shouldn't
9 matter for purposes, either of the hypothetical
10 immunity I -- statute I described, which focuses
11 exclusively on the contents of the books, or for
12 230(c)(1).
13 Now Mr. Schnapper said in a colloquy
14 earlier that he thought the allegations in his
15 complaint are basically the same as those in the
16 Twitter complaint. And the government is
17 arguing in Twitter that those allegations are
18 not sufficient to state a claim under the
19 Anti-Terrorism Act.
20 So our -- our interest in 230(c)(1) is
21 not in allowing this particular suit to go
22 forward. It is in preserving the distinction
23 between immunity -- protection for the
24 underlying content and protection for the
25 platform's own choices.

1 JUSTICE THOMAS: Well, I -- I just
2 think it's going to be difficult. How would you
3 respond to Justice Gorsuch's hypothetical about
4 the artificial intelligence creating content
5 organizational decisions?
6 MR. STEWART: I mean, I think the
7 organizational decisions could still be
8 subjected to a suit. Whether you think of them
9 as recommendations or simply as the platform --
10 the -- the operation of the platform, it's still
11 the platform's own choice.
12 And if you ask how did a particular
13 video wind up in the queue of a particular
14 individual, it -- it could be some -- some sort
15 of artificial intelligence that was making that
16 choice, but it would have to do with the --
17 YouTube's administration of its own platform.
18 It wouldn't be a choice made by any third-party
19 who had posted it because third parties who post
20 on YouTube don't direct their videos to
21 particular recipients.
22 And -- and I -- I do want to emphasize
23 this -- this theory, this rationale applies even
24 in the most mundane circumstances. For
25 instance, if you do a Google search on the name

1 for a famous person and you misspell the name
2 slightly, you still get lots of content about
3 that person. Google knows that it's smarter
4 than we are and it knows that -- more about what
5 we want than the literal terms of our search
6 might suggest.
7 I went to the Court's website and used
8 the docket search function and typed in Google
9 and left off the -- the final E and I got a
10 message that said no items find -- found. In
11 order to call up the docket for this case, you
12 have to spell Google exactly right.
13 Now the choice between those two modes
14 of operating the platform, it's extraordinarily
15 unlikely, almost inconceivable that it could
16 ever give rise to legal liability, but those are
17 choices made by the platforms themselves. They
18 are not choices made by any third party. They
19 just don't implicate 230(c)(1).
20 And the choice -- the -- any
21 conceivable lawsuit about the decision to use
22 one mode of operation rather than the --
23 another, presumably, would be dismissed on the
24 merits. But --
25 JUSTICE KAGAN: I -- I think the

1 problem, Mr. Stewart, with minimizing what your
2 position is is that in trying to separate the
3 content from the choices that are being made,
4 whether it's by YouTube or anyone else, you
5 can't present this content without making
6 choices. So, in every case in which there is
7 content, there's also a choice about
8 presentation and prioritization.
9 And the whole point of suits like this
10 is that those choices about presentation and
11 prioritization amplify certain message --
12 messages and thus create more harm.
13 Now I appreciate what you're saying is
14 like, well, that doesn't mean that you're going
15 to have liability in every case, but -- but --
16 but still, I mean, you are creating a world of
17 lawsuits. Really anytime you have content, you
18 also have these presentational and
19 prioritization choices that can be subject to
20 suit.
21 MR. STEWART: Let -- let me say a
22 couple of things about that. The first thing I
23 would say is you could make substantially the
24 same argument about employment decisions. That
25 is, in order for YouTube to operate, it has to

1 hire employees.
2 But Ms. Blatt acknowledges in the --
3 the brief that employment decisions wouldn't be
4 shielded by 230(c)(1) if there was an allegation
5 of unlawful discrimination, for instance.
6 So the fact that the platform has to
7 make some sorts of organizational choices
8 doesn't mean it's immune from suit in the rare
9 instance where it might make a choice that
10 violates some other provision of law.
11 The second thing is the -- the concern
12 we have in mind are things like imagine a
13 hypothetical job matching service like Indeed,
14 where job applicants can post their
15 qualifications and potential employers can post
16 their own listings and the website will match
17 them up.
18 And suppose it came to light that the
19 job -- the job search mechanism was routing the
20 high-paying, more professional jobs
21 disproportionately to the white applicants and
22 the lower-paying jobs to the black applicants
23 even when the qualifications were the same.
24 At -- at a general level, you could
25 describe that as choices about which content

1 would go to which users. But, when we saw that
2 kind of stark impropriety in the criteria that
3 the platform was -- was using, I think we would
4 say there has to be -- assuming it violates
5 applicable law, 230(c)(1) really shouldn't be
6 protecting that. That's not -- the complaint we
7 have here is not to the content itself or the
8 presence of the -- the third-party job postings
9 on the platform. The complaint is about the use
10 of illicit criteria to decide which users will
11 get which content.
12 And -- and our point is, in the more
13 innocuous cases or in the borderline cases where
14 the criteria seem a little bit shaky, but it's
15 not clear whether they violate any applicable
16 law, that that choice ought to be made based on
17 the law that the plaintiff invokes as the cause
18 of action. And the Court ought to be
19 determining, does the use of those criteria
20 violate that law? And it --
21 CHIEF JUSTICE ROBERTS: Well, I was
22 just going to say your -- the problem with your
23 analogies is that they involve -- I don't know
24 how many employment decisions are made in the
25 country every day, but I know that whatever it

1 is, hundreds of millions, billions of responses
2 to inquiries on the internet are made every day.
3 And, as Justice Kagan suggested, under
4 your view, every one of those would be a
5 possibility of a lawsuit if they thought there
6 was something that the algorithm referred that
7 was defamatory, that, you know, whatever it is,
8 exposed them to harmful information. And so
9 that may be the analogy doesn't fit the
10 particular -- particular context.
11 MR. STEWART: I mean, I -- I think it
12 is true that many platforms today are -- are
13 making an enormous number of these choices. And
14 if Congress thinks that circumstances have
15 changed in such a way that amendments to the
16 statute are warranted because things that didn't
17 exist or that weren't on people's minds in 1996
18 have taken on greater prominence, that would be
19 a choice for Congress to make.
20 CHIEF JUSTICE ROBERTS: Well, but
21 choice for Congress to make -- I mean, the --
22 the amici suggest that if we wait for Congress
23 to make that choice, the internet will -- will
24 be sunk. And so maybe that's not as persuasive
25 a outcome as it might seem in other cases.

1 MR. STEWART: I -- I think the main
2 thing I would say is most of the amici that are
3 making that projection are making it based on a
4 misunderstanding of our position; namely, they
5 are misunding our -- misunderstanding our
6 position to be that once YouTube recommends a
7 video or once YouTube sends a video to a
8 particular user without the user requesting it,
9 that YouTube is liable for any impropriety in
10 the content of the video itself.
11 And that's not our position. Our
12 position is that YouTube's own conduct falls
13 outside of 230(c)(1). It's unlikely in very
14 many instances to give rise to actual liability.
15 JUSTICE KAVANAUGH: Why not? Why --
16 why -- why wouldn't it be liable? Explain that.
17 MR. STEWART: I think the reason --
18 the reason we would say is for -- for -- in --
19 in this case in particular, to -- to look ahead
20 a little bit to the -- the Twitter argument
21 tomorrow, there were questions at the beginning
22 of Mr. Schnapper's presentation about the role
23 that neutrality played in the analysis, and our
24 view is neutrality is not part of the 230(c)(1)
25 analysis, but it's a big part of the

1 Anti-Terrorism Act analysis because we say a
2 person is much more likely to be liable for
3 aiding and abetting if it is due -- kind of
4 giving special treatment to the primary
5 wrongdoing, if it has taken --
6 JUSTICE KAVANAUGH: Well, you -- keep
7 going.
8 MR. STEWART: And -- and -- and so, if
9 it is, in fact, the case that YouTube is
10 applying neutral algorithms, is simply showing
11 more ISIS videos to people who've shown an
12 interest in ISIS, just as it does more cat
13 videos to people who've shown an interest in --
14 in cats, that's much less likely to give rise to
15 liability under the Anti-Terrorism --
16 JUSTICE KAVANAUGH: I mean, much less
17 likely, I'm not sure based on what. You seem to
18 be putting a lot of stock on the liability piece
19 of this rather than, as Justice Jackson was
20 saying, the immunity piece. And I'm just not
21 sure -- you know, if we -- if we go down this
22 road, I'm not sure that's going to really pan
23 out. Certainly, as Justice Kagan says, lawsuits
24 will be nonstop --
25 MR. STEWART: I --

1 JUSTICE KAVANAUGH: -- on defamatory
2 material, which there's a lot of, that is out
3 there and finds its way onto the websites that
4 host third-party conduct.
5 MR. STEWART: And -- and -- I --
6 JUSTICE KAVANAUGH: There will be lots
7 of lawsuits. You agree with that?
8 MR. STEWART: I -- I wouldn't
9 necessarily agree with lots -- there would be
10 lots of lawsuits, simply because there are a lot
11 of things to sue about, but they would not be
12 suits that have much likelihood of prevailing,
13 especially if the Court makes clear that even
14 after there's a recommendation, the website
15 still can't be treated as the publisher or
16 speaker of the underlying third-party content.
17 JUSTICE KAVANAUGH: Well, just bigger
18 picture then to the Chief's question, isn't it
19 better for -- to keep it the way it is for us
20 and Congress -- to put the burden on Congress to
21 change that and they can consider the
22 implications and make these predictive
23 judgments?
24 You're asking us right now to make a
25 very precise predictive judgment that, don't

1 worry about it, it's really not going to be that
2 bad. I don't know that that's at all the case,
3 and I don't know how we can assess that in any
4 meaningful way.
5 MR. STEWART: I -- I think, with
6 respect, that that -- that characterization of
7 the existing case law overstates the extent to
8 which courts are in agreement that platform
9 design choices --
10 JUSTICE KAVANAUGH: Okay. Assume they
11 are. Assume the status quo is against you in --
12 in the law. And you're asking us, well, the
13 status quo is wrong, okay, and this Court's the
14 first time we're getting to look at it. But
15 don't worry about the implications of this
16 because it's really all going to be fine, there
17 won't be many successful lawsuits, there won't
18 be really many lawsuits at all.
19 And I -- I don't know how we can make
20 that assessment.
21 MR. STEWART: I -- I think, if the
22 Court thought that kind of the interpretive
23 question, looking at the plain language of the
24 statute, was on a knife's edge, it -- it was an
25 authentically close call, then, yes, the Court

1 could -- and the Court perceived the existing
2 case law to be basically uniform, the Court give
3 -- could give some weight to the interest in
4 stability.
5 But I think, for us, neither of those
6 things is true.
7 JUSTICE BARRETT: Mr. Stewart --
8 MR. STEWART: That --
9 JUSTICE BARRETT: Oh, sorry. Please
10 finish.
11 MR. STEWART: I was -- I was going to
12 say the -- the statutory text really is not --
13 it -- it may have a little bit of ambiguity at
14 the margins, but it is very clearly focused on
15 protecting the platform from liability for
16 information provided by another information
17 content provider, not by the platform's own
18 choices.
19 I'm sorry, Justice Barrett?
20 JUSTICE BARRETT: Oh, no, no, no, I'm
21 sorry.
22 So speaking of this question of what
23 are the implications of this and Justice
24 Jackson's points about liability and immunity
25 overlapping, it seems like one of the responses

1 to should we worry about this is, well, it's
2 going to be the rare kind of claim that could be
3 based on recommendations.
4 So speaking of that, what is the
5 government's position, if you have one, on
6 whether, if the plaintiffs below lose tomorrow
7 in Twitter, should we just send this back?
8 Because there isn't -- I mean, you said the
9 government's position is that there is no claim.
10 So --
11 MR. STEWART: Certainly, our position
12 -- we -- we haven't analyzed the -- the Gonzalez
13 --
14 JUSTICE BARRETT: Right.
15 MR. STEWART: -- complaint in detail,
16 but that is our position as to the Twitter
17 complaint. And Mr. Schnapper said he doesn't
18 perceive a material difference between the two.
19 Now, presumably, the Court granted
20 cert in both cases because it thought it would
21 at least be helpful to clarify the law both as
22 to the Anti-Terrorism Act and as to Section
23 230(c)(1). But, if the Court no longer believes
24 that or if it resolves Twitter in such a way
25 that it seems evident that its decision on the

1 230(c)(1) issue wouldn't ultimately be
2 outcome-determinative in Gonzalez, then it could
3 vacate and remand for further analysis of the
4 ATA question. That would be a permissible -- I
5 mean, a possible course of action.
6 JUSTICE BARRETT: Okay.
7 CHIEF JUSTICE ROBERTS: Thank you,
8 counsel.
9 We're talking about the prospect of
10 significant liability in litigation, and up to
11 this point, people have focused on the ATA
12 because that's the one point that's at issue
13 here.
14 But I suspect there would be many,
15 many times more defamation suits, discrimination
16 suits, as -- as some of the discussion has been
17 this morning, infliction of emotional distress,
18 antitrust actions.
19 I -- I mean, it -- I -- I guess I'd be
20 interested to understand exactly what the
21 government's position is on the scope of the
22 actions that could be brought and whether or not
23 we ought to be -- I mean, it would seem to me
24 that the terrorism support thing would be just a
25 tiny bit of all the other stuff. And why

1 shouldn't we be concerned about that?
2 MR. STEWART: Let me just address the
3 -- the potential causes of action that you
4 mentioned. For -- for defamation, even if
5 somebody is suing about the recommendation,
6 230(c)(1) still directs that the platform can't
7 be treated as the publisher or speaker of the
8 underlying content. And so the question --
9 CHIEF JUSTICE ROBERTS: Well, right.
10 But it's -- it's -- defamation law is implicated
11 if you repeat libel even though you're -- you
12 didn't originally commit defamation.
13 MR. STEWART: If you repeat it, and so
14 if YouTube circulated videos with a little blurb
15 saying -- and I think one of the amicus briefs
16 describes this hypothetical scenario -- if you
17 repeated it with a little blurb saying this
18 video shows that John Smith is a murderer, then,
19 yes, there would be liability. But --
20 CHIEF JUSTICE ROBERTS: But there
21 wouldn't be if you just repeated it without any
22 commentary? Normally, it would be if you're the
23 newspaper and you just publish something, so and
24 so's a shoplifter, the newspaper would be liable
25 for that.

1 MR. STEWART: No, we think it should
2 be analyzed as though it were an explicit
3 recommendation. And so, if Google had posted a
4 message that said we recommend that you watch
5 this video, now the recommendation would be its
6 own content. But, in answering the question can
7 it be held liable for defamation, you would ask:
8 Can a person under the law of the applicable --
9 of the relevant state be held liable for
10 recommending content that is itself defamatory
11 if the recommender does not repeat the
12 defamatory aspects of that content in the course
13 of the recommendation?
14 And our understanding is that at least
15 under the common law the answer to that would be
16 no, that simply saying you should read this book
17 that turns out to be defamatory would not be a
18 basis for defamation liability.
19 I think the same would basically be
20 true of intentional infliction of emotional
21 distress. That is, unless you could show that
22 the platform was acting with the intent to cause
23 emotional distress by circulating the video,
24 there would be no liability. And the fact that
25 the third-party poster may have met the elements

1 of that offense wouldn't carry the day.
2 With respect to antitrust, if you had
3 a claim that a particular search engine had
4 configured its results in such a way as to boost
5 its own products or to diminish the search
6 results for products of the competitor and if
7 that were found to be a viable claim under the
8 antitrust laws, there would be no reason to
9 insulate the provider from liability for that.
10 CHIEF JUSTICE ROBERTS: Now that's --
11 that's a broad overview of a lot of different
12 areas of law, but, certainly, the law is not
13 established the way you're suggesting, I -- I
14 think, in any of those areas.
15 MR. STEWART: And -- and -- but I
16 guess the question is, what did Congress intend
17 to do or what did it do when it passed this
18 statute?
19 And Congress didn't create anything
20 that was -- even resembled a -- an all purposes
21 of immunity, immunity for anything it might do
22 in the course of its functions. It focused very
23 precisely on information provided by another
24 information content provider.
25 CHIEF JUSTICE ROBERTS: Thank you,

1 thank you.
2 Justice Thomas?
3 Justice Alito?
4 JUSTICE ALITO: In the government's
5 view, are there any circumstances in which an
6 internet service provider could be sued for
7 defamatory content in a video that it provides?
8 MR. STEWART: I think --
9 JUSTICE ALITO: Third-party video.
10 MR. STEWART: -- I think the only --
11 given our understanding of the -- the common
12 law, I think the only way that would happen is
13 if the third-party provider, in circulating the
14 video, added its own comment that incorporated
15 the defamatory gist of the allegations.
16 And as the Chief Justice was pointing
17 out, it -- it is true that under common law, if
18 you repeat somebody else's defamatory statement
19 but say what it is, that you can be held liable
20 for that.
21 JUSTICE ALITO: I mean, imagine the
22 most defamatory -- terribly defamatory video.
23 So suppose the competitor of a restaurant posts
24 a video saying that this rival restaurant
25 suffers from all sorts of health problems, it --

1 it creates a fake video showing rats running
2 around in the kitchen, it says that the chef has
3 some highly communicable disease and so forth,
4 and YouTube knows that this is defamatory, knows
5 it's -- it's completely false, and yet refuses
6 to take it down.
7 They could not be civilly liable for
8 that?
9 MR. STEWART: That -- that's our -- I
10 mean, we think that Zeran -- Zeran was not
11 exactly a defamation case, but it fit within --
12 pretty closely within that profile. That is,
13 Zeran was the early Fourth Circuit case in which
14 a person posted a video that purported to be
15 from another person and subjected that other
16 person to complaints and harassment that seemed
17 justified to -- to the people who were doing it.
18 JUSTICE ALITO: Well, did any -- did
19 any entity have that scope of protection under
20 common law?
21 MR. STEWART: No, not -- no, I don't
22 believe so. And that was the point of (c)(1).
23 The point of (c)(1) was to say --
24 JUSTICE ALITO: Well, it -- it was at
25 least to -- to shield internet service providers

1 from liability they -- excuse me -- based on
2 their status as a publisher.
3 MR. STEWART: I -- I wouldn't put it
4 as --
5 JUSTICE ALITO: But even a distributor
6 wouldn't have immunity if it knew as a matter of
7 fact that this material that it was distributing
8 was defamatory, isn't that right?
9 MR. STEWART: I mean, that -- that --
10 that is right. I think we would think of the
11 distributor as a subcategory of publisher, but,
12 yes, the bookseller would not be strictly
13 liable. And, obviously, Justice --
14 JUSTICE ALITO: You really think that
15 Congress meant to go that far?
16 MR. STEWART: We -- we do, but,
17 obviously, that is -- if we're arguing about
18 whether the failure to take something down is
19 actionable if it is done knowingly and with an
20 understanding of the contents, then that --
21 that's a very different argument from the one
22 that we've been having up to this point.
23 That -- that would be saying that the
24 statute should be construed --
25 JUSTICE ALITO: But that is your --

1 but that is your position?
2 MR. STEWART: Our position --
3 JUSTICE ALITO: That is the
4 government's position, is it not?
5 MR. STEWART: -- our position -- yes,
6 our position is that if the -- if the wrong
7 alleged is simply the failure to block -- block
8 or remove the third-party content, that
9 230(c)(1) protects the platform from liability
10 for that, whether it's based on a strict
11 liability theory or on a theory -- theory of
12 negligence or unreasonableness in failing to
13 take the material down upon request.
14 JUSTICE ALITO: The internet service
15 provider wants to -- really has it in for
16 somebody, wants to harm this person as much as
17 possible, and so posts extraordinarily gruesome
18 videos of a family member who's been involved in
19 an automobile accident or something like that.
20 MR. STEWART: Well, when you use the
21 verb "posts," that -- that's a different
22 analysis. That is, if YouTube created --
23 JUSTICE ALITO: No, it's provided by
24 somebody else, and YouTube knows that it's --
25 knows what it's -- what it is, and yet it puts

1 it up and refuses to take it down.
2 MR. STEWART: Yes. Our view is, if
3 the only wrong alleged is the failure to block
4 or remove, that would be protected by 230(c)(1).
5 But -- but that's -- the 230(c)(1) protection
6 doesn't go beyond that. And the theory of
7 protecting the -- the website from that was that
8 the -- the wrong is essentially done by the
9 person who makes the post. The website at most
10 allows the harm to continue.
11 And what we're talking about when
12 we're talking about the -- the website's own
13 choices are affirmative acts by the website, not
14 simply allowing third-party material to stay on
15 the platform.
16 JUSTICE ALITO: So an express
17 recommendation would potentially subject YouTube
18 to civil liabilities. So they put up -- they
19 say, "watch this ISIS video, spectacular," okay,
20 they could be liable there?
21 MR. STEWART: Yes, if the other
22 elements --
23 JUSTICE ALITO: If it's expressed.
24 What if it's just implicit? What if it's the
25 fact that they put this up first and therefore

1 amplify the message of that?
2 MR. STEWART: Again, you would have to
3 ask -- they -- they could potentially be held
4 liable for that, but you would have to ask
5 whether the elements of the relevant tort have
6 been shown. And with respect to the ATA, those
7 elements include scienter, causation of the --
8 the relevant harm, et cetera.
9 If you were looking at another cause
10 of action, you would look at those elements.
11 And I think part of our reason for preferring
12 that most of the -- the work be done at the
13 liability stage rather than the 230(c)(1) stage
14 is, rather than do a kind of undirected inquiry
15 into whether this seems neutral enough, you
16 would be looking at a specific cause of action
17 and asking but for 230(c)(1), would this be an
18 actionable tort under --
19 JUSTICE KAGAN: Let me just make sure
20 I understand. Let's talk about defamation and
21 an explicit recommendation, go watch this video,
22 it's the greatest of all time, okay? But it
23 does not repeat anything about the video. It
24 just says, go watch this video, it's the
25 greatest of all time. And the video is terribly

1 defamatory in the way Justice Alito was
2 describing.
3 Now is the provider on the hook for
4 that defamation?
5 MR. STEWART: The two things I would
6 say are that depends on the defamation law of
7 the relevant state, and, as we say in the brief,
8 you should analyze that as though the platform
9 was recommending in the same terms a video
10 posted on another site.
11 So, if it would give rise to
12 defamation liability under the law of the
13 relevant state to give that sort of glowing
14 recommendation of content posted on a different
15 platform, then there's no reason that YouTube
16 should be off the hook by virtue of the fact
17 that the material was on its own platform.
18 JUSTICE KAGAN: And -- and now it's --
19 CHIEF JUSTICE ROBERTS: Thank you.
20 Justice Sotomayor, anything further?
21 JUSTICE SOTOMAYOR: Let's assume we're
22 looking for a line because it's clear from our
23 questions we are, okay? And let's assume that
24 we're uncomfortable with a line that says merely
25 recommending something without adornment, you

1 suggest, we -- you're -- you might be interested
2 in this, something neutral, not something like
3 they're right, watch this video, because I could
4 see someone possibly having a defamation action
5 if they said -- if I said that video is right
6 about that person.
7 I could see someone saying that I'm
8 spreading a defamatory statement, correct?
9 MR. STEWART: I mean, we -- we don't
10 understand the common law to have operated in
11 that way, but, obviously, the laws vary from
12 state to state, and a particular law -- state
13 could adopt a law to that effect.
14 JUSTICE SOTOMAYOR: All right. How do
15 we draw a line so we don't have to go past the
16 complaint in every case?
17 MR. STEWART: I mean --
18 JUSTICE SOTOMAYOR: And -- and I think
19 that's where my colleagues seem to be suffering.
20 And I understand your point, which is
21 there is a line at which affirmative action by
22 an internet provider should not get them
23 protection under 230(c) because that seems
24 logical. The -- the example I used earlier, the
25 dating site, they create a search engine that

1 discriminates. It -- their action is in
2 creating the search engine. And I would think
3 they would be liable for that. So tell -- tell
4 me how we get there.
5 MR. STEWART: I guess whether they
6 would be liable would depend on the applicable
7 substantive law, which could be a federal law or
8 it could be a state law. And those questions,
9 obviously, are -- are routinely decided at the
10 motion to dismiss stage. That is, with respect
11 to the -- the search engine choices that I
12 described earlier, do you include misspellings
13 or not? The plaintiff would still have to
14 identify a law that was violated by the choice
15 that the search engine made and would have to
16 allege facts sufficient to show a violation of
17 law.
18 And -- and suits like that could
19 easily be dismissed at the pleading stage. But
20 it would at least predominantly be a question of
21 the adequacy of the allegations under the
22 underlying law.
23 CHIEF JUSTICE ROBERTS: Justice Kagan?
24 JUSTICE KAGAN: I guess I thought that
25 the claims in these kinds of suits are that in

1 making the recommendation or in presenting
2 something as first, so really prioritizing it,
3 that the -- the provider is -- is amplifying the
4 harm, is creating a kind of harm that wouldn't
5 have existed had the provider made other
6 choices.
7 Are you saying that that -- that is
8 something that could lead to liability or is
9 not?
10 MR. STEWART: I -- I think it is
11 something that could lead to liability, but,
12 again, it would -- you would have to establish
13 the elements of the -- of the substantive law.
14 And so kind of the -- the hypothetical we're
15 concerned with and the hypothetical that I -- I
16 think would come out in our view as the wrong
17 way under Respondent's theory is imagine a
18 particular platform had been systematically
19 promoting third-party ISIS videos and promoting
20 in the sense of putting them at the top of
21 people's queues, not of adding their own
22 messages, in order to enlist support for ISIS.
23 If that was the motivation and you
24 could show the right causal link to a particular
25 act of international terrorism, then that could

1 give rise to liability under the ATA.

2 JUSTICE KAGAN: And -- and you're not

3 saying that the motivation matters for 230;

4 you're saying that the motivation matters with

5 respect to the -- the liability question down

6 the road, right?

7 MR. STEWART: Exactly. Exactly.

8 CHIEF JUSTICE ROBERTS: Justice

9 Gorsuch?

10 JUSTICE GORSUCH: Mr. Stewart, I -- I

11 just again kind of want to make sure I

12 understand your argument, and so I'm going to

13 ask you a question similar to what I asked Mr.

14 Schnapper, which is the Ninth Circuit held that

15 any information a company provides using

16 "neutral tools" is protected under 230. That's

17 at 34a of the -- of the -- of the petition.

18 And your argument is that this

19 "neutral tools" test isn't in the statute. What

20 is in the statute is a distinction on the one

21 hand between interactive computer service and

22 access software providers and on the other hand

23 content providers.

24 And when we look at that, the access

25 software provider is protected for picking,

1 choosing, analyzing, or even digesting content.
2 So 230 protects an access software provider, an
3 interactive computer service provider, who does
4 any of those things, whether using a neutral
5 tool or not. They -- they can order, they can
6 pick, they can choose, they can analyze, they
7 can digest however they wish and they're
8 protected, even those -- even though those
9 editorial functions we might well think of as
10 some form of content in our First Amendment
11 jurisprudence, but, here, they're shielded by
12 230.
13 And then your argument, I think, goes
14 that none of that means that they're protected
15 for content generated beyond those functions.
16 And it doesn't matter whether that content is
17 generated by neutral rules or not. That content
18 is actionable whether the -- and one could think
19 of content generated by neutral rules, for
20 example, by artificial intelligence.
21 And another problem also is that it
22 begs the question what a neutral rule is. Is an
23 algorithm always neutral? Don't many of them
24 seek to profit-maximize or promote their own
25 products? Some might even prefer one point of

1 view over another.

2 And because the Ninth Circuit applied

3 the wrong test, this "neutral tools" test,

4 rather than the content test, we should remand

5 the case for reconsideration under the

6 appropriate standard. Is that a fair summary of

7 your position? And, if not, what am I missing?

8 MR. STEWART: I -- I think the thing

9 -- the aspect of that we would disagree with is

10 we don't think that the definition of "access

11 software provider" means that an entity is

12 immune from liability for performing all of

13 those functions.

14 The statute makes clear that even if

15 you perform those sorting, arranging, et cetera,

16 functions, you still fall within the definition

17 of "interactive computer service," and you are

18 still entitled to the protection of (c)(1).

19 But the protection of (c)(1) is

20 protection from liability for the third-party

21 content. And so, if you perform those sorting

22 functions in a way that was otherwise unlawful,

23 you could be on the hook for that.

24 And that -- that takes me back to the

25 -- the hypothetical about the job placement

1 service that discriminates based on race. The
2 -- the allegation of the job placement -- of
3 that job placement service is not that it
4 created any of its own content. The allegation
5 would be that with respect to third-party
6 content provided by the firms that were looking
7 for employees, it had used an impermissibly
8 legal -- a legally impermissible criterion to
9 decide which content would be sent to which
10 users. And that wouldn't be protected by (c)(1)
11 because imposing liability wouldn't hold the
12 platform -- wouldn't treat the platform as the
13 publisher or speaker of the third-party content.
14 JUSTICE GORSUCH: Thank you.
15 CHIEF JUSTICE ROBERTS: Justice
16 Kavanaugh?
17 JUSTICE KAVANAUGH: First, to follow
18 up on Justice Alito's question, the distributor
19 liability question, my understanding is that
20 issue is not before us at this time, right?
21 MR. STEWART: That's correct.
22 JUSTICE KAVANAUGH: And your position,
23 though, or your response to him suggested that
24 if we were addressing that, the reason that
25 falls within 230 is because the distributor at

1 common law or at least by 1996 was treated as a
2 secondary publisher in the circumstances
3 described there. Is that --
4 MR. STEWART: That's basically
5 correct, yes.
6 JUSTICE KAVANAUGH: Okay. Then
7 focusing on the text of the statute and
8 following up on Justice Gorsuch's question, it
9 seems to me that the key move in your position
10 as I understand it is to treat organization
11 through the algorithms as the same thing as an
12 express recommendation. Is that accurate?
13 MR. STEWART: I -- I don't -- I don't
14 think we would put it quite that way. That is,
15 in some instances, if the operation of the
16 algorithm causes particular content to appear in
17 a particular person's queue that the -- the
18 person hadn't requested, then that person might
19 perceive it to be a recommendation at least to
20 the effect that you will like this based on what
21 you have seen before.
22 So algorithms can't have that effect.
23 I don't know that we would equate the two. I
24 think we would say more the recommendation is
25 simply one instance of the platform potentially

1 being held liable for its own content rather
2 than the third-party content.
3 JUSTICE KAVANAUGH: And if the
4 algorithm prioritizes certain content, that
5 becomes the platform's own speech under your
6 theory of 231, correct -- or 230?
7 MR. STEWART: I don't know that we
8 would call it the platform's own speech, but
9 it's the platform's own conduct, the platform's
10 own choice. And so, if -- if it violated
11 antitrust law, for instance, to prioritize
12 search results in a particular way, whether or
13 not you thought of that as speech by the -- the
14 platform, it would be the platform's own
15 conduct. Holding it liable for that sort of
16 ordering wouldn't be treating it as the
17 publisher or speaker of any of the third-party
18 submissions.
19 JUSTICE KAVANAUGH: So the other side
20 and the amici say that happens -- that's what
21 the -- and Justice Kagan's question, that's
22 happening everywhere.
23 MR. STEWART: And --
24 JUSTICE KAVANAUGH: And, therefore,
25 230 really becomes somewhat meaningless, and

1 you've read what makes the definition of
2 "interactive computer service," including
3 organizing, to be a self-defeating provision
4 that really does nothing at all.
5 MR. STEWART: No, I think -- I mean, I
6 think, if -- if it is happening everywhere, that
7 is, if search engines are using a wide variety
8 of mechanisms to decide how content should be
9 ordered, that -- that --
10 JUSTICE KAVANAUGH: Do you disagree
11 with that? I mean, that's all --
12 MR. STEWART: No, I -- no, I agree
13 with that.
14 JUSTICE KAVANAUGH: Okay.
15 MR. STEWART: And I think that's
16 probably because there are very few, if any,
17 laws out there that direct internet service
18 providers to order the content in a particular
19 way.
20 If -- if a particular legislature
21 wanted to say it will now be a violation of our
22 law to give greater priority to search results
23 of companies that advertise with you, then the
24 question whether that could violate the Commerce
25 Clause, the question whether it could violate

1 the First Amendment, those would be live
2 questions.
3 They wouldn't be 230(c)(1) questions
4 because the state's attempt to impose liability
5 on that rationale would not be an attempt to
6 hold the platform liable as the publisher or
7 speaker of the third-party content.
8 JUSTICE KAVANAUGH: Thank you.
9 CHIEF JUSTICE ROBERTS: Justice
10 Barrett?
11 JUSTICE BARRETT: I want to ask you
12 the question that Mr. Schnapper and I went back
13 and forth about, thumbnails versus screenshots.
14 What would the government's position on that be?
15 So, if there were screenshots on the
16 side, his objection seemed to be that it was
17 Google's content because YouTube creates these
18 thumbnails.
19 MR. STEWART: And -- and -- that --
20 that was one aspect of Mr. Schnapper's theory
21 that we disagreed with.
22 JUSTICE BARRETT: Disagreed.
23 MR. STEWART: -- with in the brief.
24 That is, we thought that it's basically the same
25 content, the same information either way, even

1 if in the one instance Google is creating a URL
2 and in the other instance it's not.
3 JUSTICE BARRETT: So, for purposes of
4 this case, is there any difference -- let's
5 imagine that the Google algorithm, when you
6 search for ISIS, prioritizes videos produced by
7 ISIS in search results. I'm not talking about
8 being on YouTube. Content produced by ISIS, as
9 opposed to articles, if you're just looking for
10 articles about ISIS, they could be critical of
11 ISIS, they could be all kinds of things, but in
12 the search result rankings, you first get the
13 article -- the articles written by ISIS, videos
14 made by ISIS.
15 Is that the same thing as this case
16 then?
17 MR. STEWART: I think that would be
18 the same thing as this case because we would say
19 the fact that the videos appear in that order is
20 the result of choices made by the platform, not
21 the choice of any person who posted an ISIS
22 video on the platform.
23 And Congress -- it was very important
24 to Congress to absolve the platforms of
25 liability for the third-party content, but it

1 didn't try to go beyond that. The -- the
2 likelihood that ISIS would be held liable just
3 for that seems very, very slim, but it would not
4 be a 231 -- 230(c)(1) question. It would be a
5 question under whatever cause of action the
6 plaintiff invoked.
7 JUSTICE BARRETT: Okay. And then what
8 about users and retweets and likes, the question
9 I asked Mr. Schnapper about that. So, you know,
10 I gather 230(c) would protect me from liability
11 if I simply retweeted.
12 On Ms. Blatt's theory, on your theory,
13 if I retweet it, am I doing something different
14 than pointing to third-party content?
15 MR. STEWART: I -- I mean, I -- I
16 think, honestly, there hasn't been a lot of
17 litigation over the -- the -- the user prong of
18 it, and those are difficult issues. I think
19 230(c)(1) at the very least would say just by
20 virtue of having retreat -- retweeted, you can't
21 be treated as though you had made the original
22 post yourself.
23 But, with respect to you retweet, can
24 the retweet itself be grounds for liability,
25 I -- I'm not sure, and I doubt that there would

1 be much of a common law history to draw upon.
2 JUSTICE BARRETT: So you -- but the
3 logic of your position, I think, is that
4 retweets or likes or check this out, for users,
5 the logic of your position would be that 230
6 would not protect in that situation either,
7 correct?
8 MR. STEWART: I -- I think it would --
9 I think more or less the case, the -- the one
10 difference I would point to between the user and
11 the platform is the user is -- who reads a tweet
12 is typically making an individualized choice, do
13 I want to like this tweet, retweet it, or
14 neither, whereas the -- the platform decisions
15 about which videos should wind up in -- in my
16 queue at a particular point in time, there's no
17 live human being making that choice on an
18 individualized basis. It's being -- that --
19 those choices are being made on a systemic
20 basis.
21 JUSTICE BARRETT: Thank you.
22 CHIEF JUSTICE ROBERTS: Justice
23 Jackson?
24 JUSTICE JACKSON: Yes. So can -- can
25 you help me to understand whether there really

1 is a difference between the recommendations and
2 what you say is core 230 conduct?
3 I mean, I get -- I get and I'm holding
4 firm in my mind that 230 immunity, Congress
5 intended it to be directed to certain conduct by
6 the platform and that conduct is its failure to
7 block or screen the offensive conduct, so that
8 if the claim is this -- this offensive content
9 is on your website and you didn't block or
10 screen it, 230 says you're immune. I get that.
11 I guess what I'm trying to understand
12 is whether you say and plaintiff says,
13 Petitioner in this case says, well, what they're
14 really doing in the situation in which they
15 display it under a banner that says "up next" is
16 more than just providing that content and
17 failing to block it. They are promoting it in
18 some way.
19 And I -- I'm really drilling down on
20 whether or not there is actually a distinction
21 in a world of the internet where, as Ms. Blatt
22 and others have said, in order to be a platform,
23 what you're doing is you have an algorithm, and
24 in the universe of things that exist, you are
25 presenting it to people so that they can read

1 it.

2 Why -- why is that -- even though

3 it's -- you know, you call it a recommendation

4 or whatever, why is that act any different than

5 being a publisher who has this information and

6 hasn't taken it down?

7 MR. STEWART: I mean, I think I would

8 say, in -- in the situation that 230(c)(1) was

9 designed to address, the decision whether the

10 material would go up on the platform was not

11 that of the platform itself, it was the decision

12 of the third-party poster.

13 And Congress said, once that has

14 happened, you also can't be held liable for

15 failing to take it down. But, with respect to

16 what prominence you give it, that's the result

17 of your own choice, not the third-party poster.

18 Now, in most circumstances, it won't

19 make a difference because the recommendation

20 won't be actionable. And so what we are

21 concerned with is the -- the hypothetical that I

22 suggested earlier. You have --

23 JUSTICE JACKSON: Yes. I mean, I get

24 the -- I get the liability piece and all of

25 the -- the parade of horribles will depend on

1 whether or not they can actually be held liable
2 for organizing it in a certain way. And you say
3 they probably can't. And others say they might
4 be able to. And that's a separate issue.
5 Just back on the 230 piece of it, in
6 terms of Congress's intent with respect to the
7 scope of immunity, I'm -- I -- I guess I just
8 want to understand why Google or YouTube, when
9 they have a box that brings up all of the ISIS
10 videos and tees them up and, if you don't do
11 anything, they just keep playing, why that's
12 actually different than the newspaper publisher
13 who gets the offensive -- content and decides to
14 put it on page 1 versus page 20. It seemed like
15 Congress in its -- in -- in 230 was saying, if
16 you -- if -- if under the common law a newspaper
17 publisher would be liable for having put it on
18 page 1 or whatever and given it to people, we
19 don't want that to be the case for these
20 internet service companies.
21 And so I -- I don't know that I
22 understand fully why the fact that it's
23 called -- that you call it a recommendation or
24 whatever is actually any different.
25 MR. STEWART: I -- I guess one

1 difference I would point to is newspaper
2 publishers can make decisions about what will be
3 on the front page and what'll be in the back,
4 but it's going to be the same for everybody.
5 And one of the things about why we
6 call them targeted recommendations with YouTube
7 is they are being sent differently to different
8 users. And the situation we're concerned with
9 is what if a platform is able through its
10 algorithms to identify users who are likely to
11 be especially receptive to ISIS's message, and
12 what if it systematically attempts to radicalize
13 them by sending more and more and more and more
14 extreme ISIS videos, is that the sort of
15 behavior that implicates either the text or the
16 purposes of Section 230(c)(1), and we would say
17 that it doesn't.
18 JUSTICE JACKSON: Thank you.
19 CHIEF JUSTICE ROBERTS: Thank you,
20 counsel.
21 MR. STEWART: Thank you.
22 CHIEF JUSTICE ROBERTS: Ms. Blatt.
23 ORAL ARGUMENT OF LISA S. BLATT
24 ON BEHALF OF THE RESPONDENT
25 MS. BLATT: Mr. Chief Justice, and may

1 it please the Court:
2 Section 230(c)(1)'s 26 words created
3 today's internet. (c)(1) forbids treating
4 websites as "the publisher or speaker of any
5 information provided by another." Publication
6 means communicating information. So, when
7 websites communicate third-party information and
8 the plaintiff's harm flows from that
9 information, (c)(1) bars the claim.
10 The other side agrees Section 230 bars
11 any claim that YouTube aided and abetted ISIS by
12 broadcasting ISIS videos. So they instead focus
13 on YouTube's organization of videos based on
14 what's known about viewers, what they call
15 targeted recommendations. They say that feature
16 can be separated out because it implicitly
17 conveys what viewers should watch or that they
18 might like the content.
19 But accepting that theory would let
20 plaintiffs always plead around (c)(1). All
21 publishing requires organization and inherently
22 conveys that same implicit message.
23 Plaintiffs should not be able to
24 circumvent (c)(1) by pointing to features
25 inherent in all publishing. (c)(1) reflects

1 Congress's choice to shield websites for
2 publishing other people's speech, even if they
3 intentionally publish other people's harmful
4 speech.
5 Congress made that choice to stop
6 lawsuits from stifling the internet in its
7 infancy. The result has been revolutionary.
8 Innovators opened up new frontiers for the world
9 to share infinite information, and websites
10 necessarily pick, choose, and organize what
11 third-party information users see first.
12 Helping users find the proverbial
13 needle in the haystack is an -- existential
14 necessity on the internet. Search engines thus
15 tailor what users see based on what's known
16 about users. So does Amazon, Tripadvisor,
17 Wikipedia, Yelp!, Zillow, and countless video,
18 music, news, job-finding, social media, and
19 dating websites. Exposing websites to liability
20 for implicitly recommending third-party content
21 defies the text and threatens today's internet.
22 I welcome your questions.
23 JUSTICE THOMAS: Ms. Blatt, is --
24 could you give me an example of not a
25 recommendation but an endorsement similar to

1 this that would take you beyond 230?
2 MS. BLATT: Sure. So whenever you
3 have something that's going beyond the implicit
4 features of publishing and you have an express
5 statement, you have a continuum, and this
6 continuum is this: You have something that's
7 the functional equivalent of an implicit
8 message, basically, a topic heading or "up
9 next," all the way to the other extreme of an
10 endorsement of the content such that the website
11 is adopting the content as its own.
12 Now, when you have that situation, the
13 claim is fairly treating the website for
14 publishing its own speech, and you can separate
15 that out from the harm that's just coming from
16 the information provided by another.
17 And the danger which your
18 hypotheticals has raised with express speech is
19 where on that continuum any express speech may
20 go because, unlike Google and YouTube, which are
21 the two world's largest sites, we don't have a
22 lot of endorsements and that kind of stuff, but
23 other websites and other users use a myriad of
24 topic headings and emojis that have different
25 meanings that I'm not prepared and you would

1 have to know what they mean, like kinds of
2 checkmarks and, I don't know, high fives and all
3 kinds of things.
4 But the basic features of topic
5 headings, "up next," "trending now," those kinds
6 of things we would say are core, inherent -- the
7 -- they're no different than expressing what is
8 implicit in any publishing, which is we hope you
9 read this.
10 CHIEF JUSTICE ROBERTS: Well, it seems
11 to me that the -- the language of the statute
12 doesn't go that far. It says that -- their --
13 their claim is limited, as I understand it, to
14 the recommendations themselves. In other words,
15 this -- this is the list of things that you
16 might like.
17 But that information, the
18 recommendation, is not provided -- under the
19 words of the statute, it's not provided by
20 another information content provider. It's
21 provided by YouTube or -- or Google.
22 And so, although whatever the
23 liability issue may be, there's some issue
24 tomorrow and there are a lot of others, the
25 presence of an immunity under 230(c), it seems

1 to me, is just not directly applicable.
2 MS. BLATT: Well, that's incorrect
3 because of the word "recommendation." There is
4 no word called "recommendation" on YouTube's
5 website. It is videos that are posted by third
6 parties. That is solely information provided by
7 another.
8 You could say any posting is a
9 recommendation. Anytime anyone publishes
10 something, you could be said, it's a
11 recommendation. Anything.
12 CHIEF JUSTICE ROBERTS: Well, the --
13 well, the -- the videos just don't appear out of
14 thin air. They appear pursuant to the
15 algorithms that your clients have. And those
16 algorithms must be targeted to something. And
17 they're targeted -- that targeting, I think, is
18 fairly called a recommendation, and that is
19 Google's. That's not the -- the -- the provider
20 of the underlying information.
21 MS. BLATT: So nothing in the statute
22 or in the common law of defamation turns on the
23 degree of tailoring or how you organized it.
24 There's no distinct actionable message. If you
25 say I think my readers would all be interested

1 in this or I think the readers in ZIP code 2005
2 would be interested in it or if you walk up to
3 someone and say I'm going to defame someone
4 because I thought you might be interested in it,
5 it's still publishing.
6 And the other side gives you no line
7 and no way to say in some way that would be
8 workable or give websites or users any clarity
9 of how you would organize the world's
10 information. Just think about search. There
11 are 3.5 billion searches per day. All of those
12 are displays of other people's information. And
13 you could call all of them a recommendation that
14 are tailored to the user because all search
15 engines take user information into account.
16 They take the location, the language, and what
17 have you.
18 And I can give the example of
19 football. Football -- the same two users will
20 enter the word "football" and get radically
21 different results based on the user's past
22 search history and their location and their
23 language because most of the world thinks of
24 football as soccer, not the way we do.
25 And so, if you go down this road of

1 did you target it, then you have to say how
2 much? Was the topic hitting too much? Was it
3 okay to have a violence channel? Was it okay to
4 have a sex channel? Was it okay to have, you
5 know, what have you, some other channel about
6 skinny models that you could say, well, that
7 just kept repeating the -- the channel and that
8 made me crazy. So --
9 JUSTICE JACKSON: But, Ms. -- Ms.
10 Blatt, Mr. Stewart suggests that all of those
11 kinds of questions in terms of the extent of
12 liability for this kind of organization would be
13 addressed in the context of liability, not -- by
14 -- by that, I mean each state -- when somebody
15 tried to claim that YouTube had, you know, done
16 something improper in terms of pulling up those
17 kinds of videos, that each state would then look
18 and determine based on their own, you know,
19 common law whether or not you were liable. And
20 he posits that that wouldn't happen very often.
21 But we don't know.
22 My question is, isn't there something
23 different to what Congress was trying to do with
24 230? Isn't it true that that statute had a more
25 narrow scope of immunity than is -- than courts

1 have, you know, ultimately interpreted it to
2 have and that what YouTube is arguing here today
3 and that it really was just about making sure
4 that your platform and other platforms weren't
5 disincentivized to block and screen and remove
6 offensive conduct -- content?
7 And so, to the extent that the
8 question today is, well, can we be sued for
9 making recommendations, that's just not
10 something the statute was directed to.
11 MS. BLATT: So can I take this in two
12 parts? Because I -- I feel like your first part
13 of your question is addressing what the dispute
14 is between the parties, and the second part of
15 your question goes most deeper and which is, you
16 know, beyond the question presented.
17 But just on your first question about
18 why not -- why do you need an immunity as
19 opposed to liability, and in our view, that's
20 like saying -- I mean, that's death by a
21 thousand cuts, and the internet would have never
22 gotten off the ground if anybody could sue every
23 time and it was left up to 50 states' negligence
24 regime.
25 And let me give you an example. A

1 website could put something alphabetical in
2 terms of reviews, and every Young, Williams, and
3 Zimmerman, i.e., X, Y, Z, could say, well, that
4 was negligent because you should have rated it
5 somewhere else.
6 JUSTICE JACKSON: No, I totally
7 understand that. But I think my things are not
8 actually different.
9 What I'm saying is that problem that
10 you identify, which is a real problem, the
11 internet never would have gotten off the ground
12 if everybody would have sued, was not what
13 Congress was concerned about at the time it
14 enacted this statute.
15 MS. BLATT: Well, so I -- that's
16 correct -- I mean, that's incorrect for a number
17 of reasons. And we can talk about what two
18 choices you're talking about. There's only two
19 arguments on the table for what you could think
20 that (c)(1) does.
21 And that is it simply says, you know,
22 no internet -- interactive computer service
23 shall be treated as a publisher. And you could
24 think, well, there are two -- two ways of
25 looking at that. One is that you need an

1 external law that has publication as an element,
2 and then, second, which I think that your
3 question may be going to, is it only directed to
4 eliminating forms of strict liability across all
5 causes of action? And so both -- both of those
6 ways are highly problematic and also inaccurate
7 given what was happening in -- in 1996.
8 In terms of just looking at this as is
9 this just talking about defamation, it plainly
10 can't be because the statute would be a dead
11 letter upon inception because any defamation
12 cause of action can -- can be replead as
13 negligence or intentional infliction of
14 emotional distress.
15 So we think the word "treat," which
16 means to regard, applies whenever the claim is
17 treating the -- or imposing liability because --
18 by virtue of publishing. In other words --
19 JUSTICE JACKSON: But what -- what do
20 you do with the -- what do you do with the title
21 and the content and the context, right? The
22 title of Section 230 is "Protection for Private
23 Blocking and Screening of Offensive Material."
24 MS. BLATT: So let me just pinpoint
25 then the second one, which hopefully I won't --

1 we'll get to on Section (e), which is all the
2 exceptions.
3 But, in terms of the title, Stratton
4 Oakmont and restrictions, (c)(1) and (c)(2) are
5 a pair. So what you have is (c)(2) is -- and --
6 and they work together, and if you -- every time
7 you weaken (c)(1), you make (c)(2) useless and
8 defeats the whole point of this statute at least
9 in terms of cleaning up the internet.
10 (c)(2) is just a safe harbor and
11 directs what happens when you take stuff down.
12 It says nothing about what happens to the
13 content that's left up. And so the more any
14 website removes material, it perversely is
15 showing that it has knowledge or should have
16 known or could have known about the content that
17 was left up.
18 And so you have one of two things
19 happen -- that -- that would happen and would
20 have happened then and would happen now. The
21 first is websites just won't take down content.
22 And that just defeats the whole point, and you
23 basically have the internet of filth, violence,
24 hate speech, and everything else that's not
25 attractive.

1 And the second thing which I think a
2 lot of the briefs are worried about in terms of
3 free speech is you have websites taking
4 everything down and leaving up -- you know,
5 basically, you take down anything that anyone
6 might object to, and then you basically have --
7 and I'm speaking figuratively and not literally
8 -- but you have the Truman Show versus a horror
9 show.
10 You have only anodyne, you know,
11 cartoon-like stuff that's very happy talk, and
12 otherwise you just have garbage on the internet.
13 And Congress would not have achieved its purpose
14 of -- and, remember, it had in all those
15 findings only three of which are addressing the
16 harmful content. Most of it is dealing with
17 having free speech flourish on the internet,
18 jump-starting a new industry.
19 And it's inconceivable that any
20 website would have started in -- I mean, one
21 lawsuit freaked out the Congress, and they --
22 JUSTICE KAGAN: Ms. Blatt?
23 MS. BLATT: Yes. Sorry.
24 JUSTICE KAGAN: Just suppose that this
25 were a pro-ISIS algorithm. In other words, it

1 was an algorithm that was designed to give
2 people ISIS videos, even if they hadn't
3 requested them or hadn't shown any interest in
4 them.
5 Still the same answer, that -- that --
6 that -- that a claim built on that would get 230
7 protection?
8 MS. BLATT: Yes, except for the way
9 Justice Sotomayor raised it, which is material
10 support. So, if there's any -- I mean, there's
11 a criminal exception. So, if you have material
12 supporting collusion with ISIS, that's excepted
13 from the statute.
14 But, if I can just take the notion of
15 algorithms, either they're raising --
16 JUSTICE KAGAN: But -- but -- but what
17 I take you to be saying is that in general --
18 and this goes back to Justice Thomas's very
19 first question --
20 MS. BLATT: Yes.
21 JUSTICE KAGAN: -- in general, whether
22 it's neutral or whether it's not neutral,
23 whether it is designed to push a particular
24 message, does not matter under the statute and
25 you get protection either way?

1 MS. BLATT: That's correct. And just
2 referring -- I -- I agree with what Justice
3 Gorsuch said, except for he was saying that
4 somehow the Ninth Circuit was at fault because
5 it recognized this was an easy case.
6 It's not the Ninth Circuit's fault
7 that the complaint said there's nothing wrong
8 with your algorithm. You just kept repeating
9 the same information, independent of any
10 content.
11 And so we shouldn't be faulted because
12 his complaint doesn't allege anything wrongful.
13 JUSTICE KAGAN: No --
14 MS. BLATT: But, in your hypothetical,
15 where someone could say -- and, again, this is
16 always going to turn on the claim. But let's
17 just think of -- I don't know what your
18 hypothetical would be about tortious speech, but
19 the bookstore example, you could decide that you
20 want to put the adult bookstore -- book -- adult
21 book section separated from the kids section.
22 That's a "biased" choice, and I'm doing scare
23 quotes for the transcript, but --
24 JUSTICE KAGAN: Yeah, or -- or have an
25 algorithm that looks for defamatory speech and

1 puts it up top, right, and you're still saying
2 230 protection?
3 MS. BLATT: So our test, when you look
4 at the claim, and so, if you have a claim for
5 defamation, is always going to look at the claim
6 and say is the harm flowing from the third-party
7 information or from the website's own conduct or
8 speech.
9 And so, if I can mention the race
10 example, that's an excellent example of the
11 claim has nothing to do with the content of the
12 third-party information. It can be --
13 JUSTICE KAGAN: Right. But this is
14 the claim would have something to do with the
15 content of the information. It would say, you
16 know, my complaint is that you just made
17 defamatory speech available to millions of
18 people who otherwise would never have seen it.
19 And you are on the hook for that. That was your
20 choice. That's your responsibility.
21 Why doesn't -- why -- why -- why
22 should there be protection for that?
23 MS. BLATT: Well, so, if there was
24 some sort of misrepresentation or some sort of
25 terms of service that you weren't going to do

1 that, but let me give you an example where this
2 opens up a can of worms is because you could say
3 that about any content, that you elevated the
4 most recent content.
5 I mean, search engines and -- of all
6 kinds, including Google Search, but all the
7 amici briefs are telling you they have to make
8 choices. They've got an undescribable amount of
9 content, and it has to be based on something,
10 whether it's relevance to a user request, a
11 search history. If it says headache, the
12 Microsoft example, do you want something from
13 the 18 -- you know, the 1300s, or do you want
14 something that's a little more recent? Do you
15 --
16 JUSTICE BARRETT: Okay. But what if
17 -- what if -- I'm sorry, but I just want to make
18 sure in Justice Kagan's example, what if the
19 criteria, the sorting mechanism, was really
20 defamatory or pro-ISIS?
21 I guess I don't see analytically why
22 your argument wouldn't say, as Justice Kagan
23 said, that, yeah, 230 applies to that.
24 MS. BLATT: Well, it -- I mean, it's
25 similar to your -- your 303 case. You can make

1 a distinction between content choices in terms
2 of how you would organize or deal with any kind
3 of publication, whether it's a book, a
4 newspaper, a television channel, that kind of
5 stuff, and that is inherent to all publishing.
6 But you --
7 JUSTICE KAGAN: Right. So you're
8 saying 230 does apply to that?
9 MS. BLATT: Yes.
10 JUSTICE KAGAN: 230 gives protection
11 regardless?
12 MS. BLATT: Yes. I hope I didn't say
13 something incorrect.
14 JUSTICE KAGAN: 230 gives protection
15 --
16 MS. BLATT: Yes.
17 JUSTICE KAGAN: -- regardless, whether
18 it's like put the defamatory stuff up top, put
19 the pro-ISIS stuff on top, or whether it's, you
20 know, what -- what people might consider a more
21 content-neutral principle.
22 MS. BLATT: Correct. And let me just
23 say you have websites that are hate speech, so
24 they may be elevating more racist speech as
25 opposed to some other speech that talks about

1 how the equality of the races.

2 You might have a speech devoted to,

3 you know, an interest of a certain community,

4 like an ethnic community. So they may be

5 saying, you know what, we don't want to put some

6 other kind of content, we may want to publish

7 it, but we may want to put it further down on

8 our algorithm. And if you said -- again, this

9 is a content distinction.

10 If you have a claim that --

11 JUSTICE KAGAN: So I -- I can't

12 imagine that -- and -- and -- and, you know,

13 we're in a predicament here, right, because this

14 is a statute that was written at a different

15 time when the internet was completely different,

16 but the problem that the statute is trying to

17 address is you're being held responsible for

18 what is another person's defamatory remark.

19 Now, in my example, you're not being

20 held responsible for another person's defamatory

21 remark. You're being held responsible for your

22 choice in broadcasting that defamatory remark to

23 millions and millions of people who wouldn't

24 have seen it otherwise through this

25 pro-defamatory algorithm.

1 MS. BLATT: I mean --
2 JUSTICE KAGAN: And the question is,
3 you know, should 230 really be taken to go that
4 far?
5 MS. BLATT: It -- the question is can
6 you carve out pro-defamatory as -- as opposed to
7 pro anything else, pro some other type of
8 content that someone may be suing over over
9 negligence.
10 If I can just give you example of a TV
11 channel. When you broadcast an excessively
12 violent TV channel, you're giving it a new
13 audience that they wouldn't otherwise have.
14 It's still inherent to publishing. And if you
15 decide to run reruns of the most sexually
16 explicit and violently explicit, you could say
17 that's a bad thing, and it may be, but on your
18 choice -- but -- but it would be protected under
19 230.
20 In terms of what was happening in
21 1996, I strongly disagree with the notion that
22 algorithms weren't present based on targeted
23 recommendations. The Center for Democracy and
24 Technology has this wonderful history lesson of
25 what was happening in '92 through '94 on how

1 targeted recommendations developed.
2 And you had something called news
3 groups, which were for anyone using the
4 internet, that was sort of what people did.
5 They signed up for a news group, and those news
6 groups adopted the technology that is the
7 technology that is alleged in this case.
8 They looked at what the user was
9 looking at. Say the user was looking at science
10 news. And they thought, oh, that also user is
11 looking at some other kind of news, maybe on
12 psychology or something. And so they would make
13 recommendations based on your user history and
14 that of others.
15 Amazon two months into 1997 introduced
16 its famous feature, if you buy X, you might like
17 Y based on that technology. So this technology
18 was present starting in '92.
19 And '92 through '96, the internet was
20 definitely different, but it was kind of a mess.
21 You still had to organize it. So there were
22 search engines. There was all kinds of features
23 that were organizing content because even then
24 it was massive. It's just now on, like, an
25 exponentially greater scale.

1 JUSTICE JACKSON: Ms. Blatt, I guess
2 my concern is that your theory that 230 covers
3 the scenario that Justice Kagan pointed out
4 seems to bear no relationship in my view to the
5 text --
6 MS. BLATT: Okay.
7 JUSTICE JACKSON: -- of the actual
8 statute.
9 MS. BLATT: Sure.
10 JUSTICE JACKSON: I mean, the -- the
11 -- when we look at 230(c), it says, "Protection
12 for 'Good Samaritan' blocking and screening of
13 offensive material," suggesting that Congress
14 was really trying to protect those internet
15 platforms that were in good faith blocking and
16 screening offensive material.
17 Yet, if we take Justice Kagan's
18 example, you're saying the protection extends to
19 internet platforms that are promoting offensive
20 material. So it suggests to me that it is
21 exactly the opposite of what Congress was trying
22 to do in the statute.
23 MS. BLATT: Well, I think promoting --
24 I think a lot of things are offensive that other
25 people might think are entertaining, and so --

1 JUSTICE JACKSON: No, it's not about
2 -- it's not about whether -- let's take as a
3 given we're talking about offensive material
4 because that's all through the statute, right?
5 You -- you don't -- you don't disagree that
6 Congress was focused on offensive material, that
7 that's sort of the basis of the whole statutory
8 scheme.
9 So, if we take as a given that we're
10 talking about offensive material, it looks to me
11 from the text of the statute that Congress is
12 trying to immunize those platforms that are
13 taking it down, that are doing things to try to
14 clean up the internet.
15 And in the hypothetical that we just
16 -- that was just presented, we have a platform
17 that is not only not taking it down in the way
18 that the statute is focused on, it is creating a
19 separate algorithm that pushes to the front so
20 that more people would see it than otherwise the
21 offensive material.
22 So how is that even conceptually
23 consistent with what it looks as though this
24 statute is about?
25 MS. BLATT: Well, so just a couple

1 things. And, again, I -- we're on this
2 defamatory material. The website itself does
3 something defamatory that's not -- it's
4 independent of the third-party content. It's
5 not protected.
6 But that same hypothetical could be
7 said if it was on the front -- the -- the home
8 page as opposed to you had to do a search engine
9 first. And I don't see anything in the statute
10 that protects it.
11 In terms of what I think your deeper
12 section is -- deeper concern is, the reading of
13 the statute, I don't think it's coterminous with
14 (c)(2), which is dealing with the type of
15 offensive material, which, by the way, doesn't
16 mention defamation.
17 In terms of (c), we talked about how
18 they work together. We talked about how it
19 could be easily overrode if it had just
20 publication. The one thing we didn't talk about
21 was the structure in Section (e). (e) is a
22 laundry list -- a laundry list of a variety of
23 exceptions under federal law to which (c)(1)
24 does not apply as well as (c)(2). And those
25 exceptions make very little sense if (c)(1) is

1 read the way you're reading it. It would almost
2 never apply to (c)(2).
3 And let's just take federal criminal
4 laws. It would make very little sense because
5 those laws -- almost none of them have strict
6 liability as an element, and vanishingly few
7 would have publication or speaking as an
8 element. It's in there for no other reason
9 other than that (c)(1) would otherwise apply to
10 the -- the -- the -- the information provided by
11 another.
12 And in terms of just the pure text,
13 when you keep saying its failure to take down,
14 I'm hearing you say what Congress wrote was
15 treatment as a publisher. That means
16 dissemination. That means publishing.
17 JUSTICE JACKSON: Except Congress
18 didn't say that.
19 MS. BLATT: You cannot be held liable
20 for publishing.
21 JUSTICE JACKSON: If you look at the
22 statute, it says, "Protection for 'Good
23 Samaritan' blocking and screening." If you take
24 into account Stratton Oakmont, if -- those
25 things I thought were like a given, what -- what

1 the people who were crafting this statute were
2 worried about was filth on the internet and the
3 extent to which, because of that court case and
4 -- and perhaps others, the platforms were not
5 being incentivized to take it down, because if
6 they were trying to take it down like Prodigy,
7 they were going to be slammed because they were
8 going to be treated as a publisher.
9 And so the statute is like we want you
10 to take these things down, and so here's what
11 we're going to do. We're going to say that just
12 because they're on your -- your -- your website,
13 it doesn't mean you're going to be held
14 automatically liable for it. And that's (c)(1).
15 And to the extent you're in (c)(2), you're
16 trying to take it down, but you don't get them
17 all, we're not going to hold you liable for it.
18 That seems to me to be a very narrow
19 scope of immunity that doesn't cover whether or
20 not you're making recommendations or promoting
21 or doing anything else.
22 MS. BLATT: Well, I mean, that -- that
23 is -- what I understand the government and the
24 Petitioner to be saying is that disseminating --
25 even 24/7 disseminating of ISIS videos is

1 protected. The only thing that's not protected
2 is whether you can tease out something about the
3 organization and call it a recommendation when
4 there is no express speech recommending it.
5 It's just the placement of where in the order in
6 which content appears.
7 And that same complaint could be made
8 about search engines. So I think, under your
9 view, search engines would not be covered
10 because they are taking user information,
11 targeting recommendations in the sense of
12 they're saying we think you would be interested
13 in the first content as opposed to the content
14 on, you know, 1,000,692 sections. I mean, they
15 have millions and millions of hits for any
16 search result.
17 And if you think those are
18 recommendations and the other side gives you no
19 basis for distinguishing between search engines,
20 then the statute is just very different than I
21 think the one that Congress was talking about,
22 because, again, if you're going to look at
23 findings and history and policy, this is about
24 diversity of viewpoints, jump-starting an
25 industry, having information flourishing on the

1 internet, and free speech.
2 JUSTICE BARRETT: Ms. Blatt, what
3 about Justice Sotomayor's dating hypothetical?
4 The discrimination, like, oh, we're only going
5 to -- we're not going to match black people and
6 white people, et cetera. What about that? Is
7 that given 230's shield?
8 MS. BLATT: Absolutely not, because
9 any disparate treatment claim or race
10 discrimination is saying you're treating people
11 different regardless of the content.
12 So, if I'm -- I'm going to use it like
13 with an advertising, like I don't know, whether
14 I'm a woman of 10 or -- I mean, that was a bad
15 example -- a woman of 30 or whatever, and
16 whether I live somewhere, it really doesn't
17 matter in terms of the law that's prohibiting
18 discrimination. The law is indifferent to what
19 the content is. It's just very unhappy about
20 any kind of status-based distinction.
21 So we think -- and the -- the harm
22 that would flow is not the third-party
23 information. It's the website's conduct,
24 whether you want to call it speech or conduct,
25 that's based on status.

1 JUSTICE BARRETT: But what about the
2 dating profile? I mean, isn't that part of the
3 content? Isn't that part of the third-party
4 information?
5 MS. BLATT: Sure. And it's just --
6 you could put it a bunch of different ways. You
7 could say, even before the profiles go up,
8 there's a complete harm, or even if the profiles
9 go up, it doesn't matter. We would distinguish
10 between the way dating sites work, which don't
11 work based on status but based on criteria
12 that's uploaded, and those are, you know, you're
13 matching with somebody else. The website is not
14 saying you should only date a white person.
15 JUSTICE BARRETT: Okay. Then what
16 about news? What about an algorithm that says,
17 you know, you are a white person, you're only
18 going to be interested in news about white
19 people, and it will screen out anything that is
20 a story featuring racial justice issues.
21 MS. BLATT: Yeah, again, anything
22 based on status, because the harm is complete,
23 independent of the information, but if a website
24 wants to say we're going to celebrate Black
25 History Month, no, a white person or a black

1 person is not going to be able to complain and
2 say, well, I didn't get enough white history
3 month on your website. Those are claims that
4 are core within treating them as publishing of
5 the information --
6 JUSTICE BARRETT: Yeah, but I guess
7 I'm -- don't you think you're just fighting on
8 the liability?
9 MS. BLATT: No.
10 JUSTICE BARRETT: I mean, it seems to
11 me that you're kind of going back to liability,
12 because all of those are choices that are made
13 independently, right? I mean, we've been
14 talking about the distinction between -- or --
15 or the lack of distinction in your view between
16 the content itself and the website's choice of
17 how to publish it.
18 I guess I don't see why --
19 MS. BLATT: So here's --
20 JUSTICE BARRETT: -- for 230 purposes.
21 MS. BLATT: -- here's our test, and
22 it's the test the Fourth Circuit recently took
23 in Henderson, and it's the test the Ninth
24 Circuit took.
25 Let me give you an example that I

1 think may help with the ad revenue sharing. So
2 this was an allegation that YouTube was giving
3 money to ISIS. Now this was in connection with
4 third-party videos, third-party information.
5 But the court said, no, that is not within
6 Section 230 because that's independent of the
7 information, that's giving money to ISIS. That
8 kind of, whatever you think about its validity
9 under the statute, you're not treating them as a
10 publisher; you're treating them as a financer.
11 And it's just -- and that's the test
12 of the Fourth Circuit too. The Fourth Circuit
13 is looking -- in that case, it was about -- you
14 know, all kinds of things were happening with
15 third-party information, and they were trying to
16 tease out is it the credit report, did they
17 contribute to the credit report, was it based on
18 the website's failure to -- to notify the
19 employee.
20 And what the Fourth Circuit said is
21 the exact same thing we said, and it's the exact
22 same thing the plaintiff has said on four pages
23 of its brief or four times in its brief, that
24 you're looking for the harm. What is the harm
25 caused? And this case is the perfect example.

1 The plaintiffs suffered a terrible fate, and
2 their argument is it's because people were
3 radicalized by ISIS.
4 And if you start with the concession
5 that the dissemination of those ISIS videos are
6 -- and a claim based on that is barred, the
7 question is, is what additional comes from the
8 way it was organized?
9 The government just says, I don't
10 know, let some state figure it out. That's not
11 very helpful to internets that have to work on a
12 national level and are posting and sorting and
13 organizing billions upon billions upon billions
14 of piece of -- pieces of information.
15 JUSTICE BARRETT: So, just -- just to
16 clarify, this is my last point, you're happy
17 with the Henderson test, the Fourth Circuit
18 test?
19 MS. BLATT: Yes. I would say
20 Henderson is like 96 percent correct. I got a
21 little lost when they were going down the common
22 law on publication, but the result was great. I
23 just thought they got a little weird on the
24 publication.
25 But, yeah, no, their test is correct,

1 and it's also the Ninth Circuit's test on the
2 ISIS revenue. It's the exact same test we quote
3 in our brief, and it's the exact same test
4 Petitioner did.
5 And what that harm test is doing, if I
6 could just explain it because it sounds kind of
7 shorthand, but if you take the -- which I'm not
8 sure Justice Jackson agrees with, but if you
9 take the underlying notion that this bars
10 treatment as a publisher, and you're saying,
11 well, can they get around it by the way they're
12 pleading it, you're just looking to the harm, so
13 you're saying you can't really say that's
14 negligence or intentional infliction because the
15 harm is coming from the publishing of the
16 defamatory content.
17 And so what I think all these cases
18 where the courts are correctly saying 230 does
19 not apply to the claim is they're isolating the
20 harm and saying that's independent of the
21 third-party information. It's either based on
22 the website's own speech or it's website's own
23 conduct that's independent of the harm flowing
24 from the third-party information.
25 JUSTICE ALITO: If YouTube labeled

1 certain videos as the product of what it labels
2 as responsible news providers, that would be --
3 that would be Google's own content, right?
4 MS. BLATT: Yes. Yes. And can --
5 JUSTICE ALITO: And --
6 MS. BLATT: Yes. Can I say one thing
7 just because --
8 JUSTICE ALITO: Yeah. Sure.
9 MS. BLATT: -- I forgot to mention
10 thumbnails? Sorry. Thumbnails aren't mentioned
11 in the complaint, so I was literally trying to
12 figure out what he was talking about when I was
13 up there because it's just not something in the
14 complaint. But that is a screenshot of the
15 information being provided by another. It's the
16 embedded third-party speech. Okay. Sorry.
17 Keep going.
18 JUSTICE ALITO: All right. So if --
19 but then, if I do a search for today's news in
20 YouTube -- in fact, I did that yesterday -- and
21 all the top hits were very well-known news
22 sources. Those are not recommendations. That's
23 not YouTube's speech? The fact that YouTube put
24 those at the top, so those are the ones I'm most
25 likely to look at, that's not YouTube's speech?

1 MS. BLATT: Right. But, I mean, all
2 search engines work the same way. If you type
3 in whatever you type in, there is a algorithm
4 that's deciding what content to display. It has
5 to be displayed somehow.
6 And what I think is going on on
7 YouTube or it's certainly going on on Google
8 Search is they're not going to -- they're
9 looking at what did other users look, how
10 popular was it, that kind of thing. You know,
11 is it -- is that news source, you know, from
12 Russia? Probably not going to get on the top
13 list.
14 So, yeah, they're having to make
15 choices because there could be over a billion
16 hits from yours, and there are a -- a billion
17 hours of videos watched each day on YouTube and
18 500 hours uploaded every minute, so it's a lot
19 of content on YouTube. So some of it's based on
20 channels, and some of it's based on searches.
21 But they have to organize it somehow.
22 But that is what's going on, I think,
23 on your top searches, is they're -- in most
24 search engines too, and you can look at the
25 Microsoft brief, they're basing it on what --

1 time spent on those news sites, how many users
2 are looking at them, how relevant it is, if
3 it's -- if you're -- if you're typing in the
4 Turkey earthquake, they might be elevating some
5 stuff that's featuring that because it's, you
6 know, seems more relevant.
7 If there's a recent election, they
8 might feature that. So all these kinds of
9 decisions are being made by websites every day.
10 JUSTICE ALITO: Would -- would the --
11 would Google collapse and the internet be
12 destroyed if YouTube and, therefore, Google were
13 potentially liable for posting and refusing to
14 take down videos that it knows are defamatory
15 and false?
16 MS. BLATT: Well, I don't think Google
17 would. I think probably every other website
18 might be because they're not as big as Google.
19 But here's what happens.
20 I mean, you do have that situation in
21 Europe, but there -- there's not class actions.
22 There's not plaintiffs' lawyers. There's just
23 not the tort system. So what you would have is
24 a deluge of people saying, you know, my -- that
25 restaurant review was -- you know, you say my

1 restaurant review, I didn't like it.
2 I think Yelp! does an amazing job on
3 this, about how much they got hit and had to
4 spend, you know, almost crushing litigation
5 because they were being accused of being, you
6 know, biased on reviewers. And everyone -- no
7 matter what -- they couldn't win for losing or
8 lose for winning, whatever the phrase is,
9 because whoever they -- whoever got reviewed,
10 somebody was upset.
11 And so I think those websites, they
12 never would have happened, and they probably
13 would collapse.
14 CHIEF JUSTICE ROBERTS: Thank you,
15 counsel.
16 Justice Thomas, anything further?
17 Justice Alito?
18 Justice Sotomayor?
19 Justice Kagan?
20 Justice Gorsuch?
21 JUSTICE GORSUCH: Ms. Blatt, it -- it
22 -- it -- I -- I kind of want to return to some
23 of the questions I asked earlier. It seems to
24 me inherent in (c)(1) is a distinction between
25 those who are simply interactive computer

1 services and those who are information content
2 providers.
3 And so, when we flip over to (f), the
4 distinction I -- I -- I glean from that is that
5 if you're picking, choosing, analyzing, or
6 digesting content, which is the bulk of what you
7 -- how you describe Google's activities in -- in
8 the search engine context, are -- are protected
9 and that content must be something more than
10 that, providing content must be something more
11 than that.
12 Is -- is that right in your view?
13 MS. BLATT: I -- I thought you were
14 absolutely correct. And I think some of the
15 amicus briefs do this. In terms of if you're
16 looking at what is information being created or
17 developed, there is that distinction. It can't
18 be that you -- by sorting, you created or
19 partially developed the information.
20 So I think you had it exactly right.
21 I got a little upset when you talked about a
22 remand that somehow the Ninth Circuit got it
23 wrong.
24 JUSTICE GORSUCH: Well, let's -- let's
25 go there next then, because it -- it seems to me

1 that even under that understanding of the
2 statute, there is some residual content for
3 which an interactive computer service can be
4 liable.
5 You'd -- you'd agree with that, that
6 that's possible?
7 MS. BLATT: Not on this complaint
8 because --
9 JUSTICE GORSUCH: No, no, no, of
10 course, not on this complaint, but in the
11 abstract, it -- it's possible?
12 MS. BLATT: Absolutely correct.
13 JUSTICE GORSUCH: Okay. And then,
14 when -- when it comes to what the Ninth Circuit
15 did, it applied this "neutral tools" test, and I
16 guess my problem with that is that language
17 isn't anywhere in the statute, number one.
18 Number two, you can use algorithms as
19 well as persons to generate content, so just
20 because it's an algorithm doesn't mean it
21 doesn't -- can't generate content, it seems to
22 me.
23 And third, that I'm not even sure any
24 algorithm really is neutral. I'm not even sure
25 what that test means because most algorithms are

1 designed these days to maximize profits.
2 There are other examples -- Justice
3 Kagan offered some, the Solicitor General
4 offered some -- where an algorithm might be --
5 contain a -- a point of view and even a
6 discriminatory one.
7 So I -- I guess I'm not sure I
8 understand why the Ninth Circuit's test was the
9 appropriate one and why a remand wouldn't be
10 appropriate to have it apply the -- the test
11 that we just discussed.
12 MS. BLATT: Because it's not -- I
13 don't think that was the Ninth Circuit's test.
14 It was one sentence that -- maybe I think it
15 mentioned it twice -- that's basically, you
16 know, almost making fun of the complaint.
17 The complaint doesn't --
18 JUSTICE GORSUCH: Oh, oh, okay. Okay.
19 So we're just disagreeing over how we read the
20 Ninth Circuit's opinion, but if I read it that
21 way, then would a remand be appropriate?
22 MS. BLATT: Well, I'm -- I'm going to
23 say no because I don't understand how -- how
24 somehow that they have a bad complaint means the
25 Ninth Circuit's worse off when the Ninth Circuit

1 said over and over and over you haven't -- this
2 is just the way you're organizing it.
3 And the complaint never alleges there
4 was something independently wrongful about the
5 content. It never says these were colloquial
6 recommendations. It just says because you
7 previously liked this content.
8 And one other thing. The complaint
9 never even alleges that the -- YouTube ever
10 recommended to any -- in terms of even
11 displaying an ISIS video, to anybody who wasn't
12 looking for it. I don't even know how you could
13 get ISIS on your YouTube system unless you were
14 searching for it. And the one --
15 JUSTICE GORSUCH: I -- I certainly
16 understand your -- your -- your complaints about
17 the complaint. But, if I -- if -- if you --
18 you -- you don't think neutral tools -- you're
19 not defending the neutral tools principle either
20 I -- as I understand it.
21 MS. BLATT: I'm defending it with
22 respect to Justice Kagan's question, absolutely,
23 because she's concerned about biased algorithms,
24 and she doesn't have to worry about that in this
25 case because they have neutral algorithms they

1 don't allege. And what they mean by neutral
2 algorithms is neutral with respect to content.
3 So there's no --
4 JUSTICE GORSUCH: Thank you.
5 MS. BLATT: Okay.
6 JUSTICE GORSUCH: Thank you.
7 MS. BLATT: Thank you.
8 CHIEF JUSTICE ROBERTS: Justice
9 Kavanaugh? No?
10 Justice Barrett?
11 Justice Jackson?
12 JUSTICE JACKSON: So I understood you
13 to say that 230 immunizes platforms for
14 treatment as a publisher, which you take to mean
15 if they are acting as a publisher in the sense
16 that they are organizing and editing and -- not
17 editing, but organizing and -- content.
18 MS. BLATT: Communicating,
19 broadcasting, which includes how it's displayed.
20 JUSTICE JACKSON: And -- and would
21 that include -- I -- I just want to go back to
22 Justice Alito's point. Would that include the
23 home page of the YouTube website that has a
24 featured video box and the featured video is the
25 ISIS video?

1 MS. BLATT: Right.
2 JUSTICE JACKSON: That is -- is
3 covered?
4 MS. BLATT: Well, maybe not because
5 that gets into my continuum question. If you
6 think that "featured" is some sort of
7 endorsement such that the claim is actually
8 treating the website as -- and that the harm is
9 flowing from that -- the word "featured," then
10 that's out of 2 -- 230.
11 I think you would --
12 JUSTICE JACKSON: No, I'm sorry, why?
13 Why -- why is that out of 230?
14 MS. BLATT: So the whole point about
15 what we're saying is making sure that if you
16 start with the assumption that the dissemination
17 of YouTube -- I'm sorry -- of ISIS videos, you
18 can't hold the YouTube liable for that, then the
19 only question that we're concerned about and
20 which is so destabilizing is if you can just
21 plead around it by pointing to anything inherent
22 in the publication.
23 And the government never said what
24 websites are supposed to do.
25 JUSTICE JACKSON: No, but this is not

1 inherent in the publication.

2 MS. BLATT: Exactly, it's featured.

3 JUSTICE JACKSON: So -- so -- so this

4 is helpful, I mean, if --

5 MS. BLATT: Yes.

6 JUSTICE JACKSON: -- we -- we have

7 a -- a home page on YouTube and it has

8 "featured" as the little title and a box, and

9 let's say the algorithm randomly selects videos

10 from their content and puts them up for a week

11 at a time, and the random video that's selected

12 is the YouTube -- is the ISIS video, and it runs

13 when you open up YouTube for a week.

14 MS. BLATT: Right.

15 JUSTICE JACKSON: Covered or not

16 covered?

17 MS. BLATT: Well, it depends on

18 whether you think it's an endorsement of -- I

19 mean, if it said this is the Library of Congress

20 and we feature this because we want to show you

21 how bad ISIS is, you know, I don't know.

22 The reason why I care so much about

23 this is because, like I said, Google and YouTube

24 don't do this, but all the other amicus briefs

25 are talking about they do things like that and

1 they might have a little emoji.

2 JUSTICE JACKSON: No, I guess I'm just
3 trying -- I don't understand. I just want to
4 know whether the -- put -- putting on the home
5 page of YouTube, the decision to have an
6 algorithm that puts on its home page various
7 videos, third-party content, and it turns out
8 that one of those videos is an ISIS video and
9 the person is radicalized and they harm the
10 Petitioner's family.

11 MS. BLATT: Yes. So that is inherent
12 to publishing the home page. The word
13 "feature," actually using the express statement
14 of "feature," it -- first of all, is not -- the
15 website didn't have to do it. The owner --

16 JUSTICE JACKSON: So I'm sorry,
17 inherent to publishing, it's covered?

18 MS. BLATT: The home page.

19 JUSTICE JACKSON: It's covered?

20 MS. BLATT: Absolutely, because no
21 website -- how are you supposed to -- how are
22 you supposed to operate a website unless you put
23 a home page on, and so they have to do
24 something.

25 And if you could always say, well, the

1 home page -- you know, unless you're just going
2 to do it alphabetically or reverse chronological
3 order, a website is always going to be sued for
4 negligence.
5 JUSTICE JACKSON: All right. So, if
6 I -- if I disagree with you and I -- and I'm --
7 about the meaning of the statute, all right,
8 focusing in on the meaning of the statute, you
9 say, if you're making editorial judgments about
10 how to organize things, then you're a publisher
11 and you're covered.
12 If I think that the statute really
13 only provides immunity if the claim is that the
14 platform has this ISIS video there and it can be
15 accessed and it hasn't taken it down, do you
16 have an argument that the recommendations that
17 they're talking about is -- is tantamount to the
18 same thing?
19 MS. BLATT: Yes, because the only
20 basis for saying recommendations are not covered
21 is -- that I saw is the government saying is it
22 conveys a distinct implicit message that you
23 might be interested. That is a distinct
24 implicit message that can only -- it happens
25 every time you publish.

1 If you publish one thing on the
2 internet, it conveys a distinct message of dear
3 reader, we sat around and thought you might be
4 interested --
5 JUSTICE JACKSON: And you're saying --
6 MS. BLATT: -- or we want to make
7 money --
8 JUSTICE JACKSON: -- you're saying
9 that -- that there's no -- that organizational
10 choices that put that content on the front page,
11 on the first thing, when you open it up without
12 typing in anything, cannot be isolated and that
13 it's the same thing as it appears on the
14 internet anywhere such that 230 applies?
15 MS. BLATT: Yes, and I'll use the
16 government's own words. They said, if you hold
17 them liable for topic headings, you render the
18 statute a dead letter because you have to
19 organize the content. So, if you think the
20 topic headings are conveying some implicit
21 message you can target out, the government said
22 then the web can't function.
23 And I think we care about it because
24 we're big websites that have lots of
25 information. Other websites, and all the amici

1 briefs are saying, is our whole business is
2 organizing to make it useful. If you need a
3 job, you're going to organize it by location --
4 JUSTICE JACKSON: Are you aware of any
5 defamation claim in any state or jurisdiction in
6 which you would be held liable, you would -- you
7 would actually be liable for organizational
8 choices like this?
9 MS. BLATT: No, I'm not worried about
10 the defamation claim. I'm worried for a
11 products liability claim or what the government
12 kept saying, your design choices. Those could
13 just be a product liability claim or a
14 negligence claim. You negligently went
15 alphabetical or you negligently featured
16 whatever you featured that made my, you know,
17 kid addicted to whatever it was. And that --
18 those kind of claims happen because they're
19 publishing. And the whole point of getting this
20 statute was to protect against publishing. So
21 whatever is publishing, inherent to publishing,
22 yeah, has to be covered.
23 JUSTICE JACKSON: Thank you.
24 CHIEF JUSTICE ROBERTS: Thank you,
25 counsel.

1 Rebuttal, Mr. Schnapper?
2 REBUTTAL ARGUMENT OF ERIC SCHNAPPER
3 ON BEHALF OF THE PETITIONERS
4 MR. SCHNAPPER: Thank you, Mr. Chief
5 Justice, and may it please the Court:
6 If I might start with my colleague's
7 reference to things inherent in publishing, I
8 would just offer a cautionary note, and review
9 of the transcript will support this. That --
10 that has been given an extraordinarily expansive
11 account here.
12 So topic headings were characterized
13 as inherent in -- in publishing. You know, a
14 topic heading could be how Bob steals things all
15 the time. That's not -- shouldn't be protected.
16 She mentioned "trending now" as inherent in
17 publishing, but that's like "featured today."
18 You could run -- you could have a site that
19 didn't use the words "trending now." Autoplay
20 certainly isn't inherent in publication.
21 And -- and she mentioned home pages,
22 and you have to have a home page, and that's
23 fair, but you don't have to have on the home
24 page selected things that you're drawing
25 people's attention to. The home page that I

1 have on my desktop for Google is a box and those
2 charming little cartoons, and there isn't
3 anything featured there. One could have a -- a
4 website home page for YouTube that wasn't
5 promoting particular things. That's just how
6 they've chosen to do it.
7 With regard to neutral tools, and this
8 goes back to a point a number of you made about
9 race, a neutral algorithm can end up creating
10 very non-neutral rules. It's not hard to
11 imagine that an algorithm might conclude that
12 most people who -- who went to Spelman and
13 Morehouse now live in Prince George's County
14 and, therefore, in showing you videos, people
15 who ask for videos about places to live near
16 Washington, if they're black, they'll be shown
17 Prince George's County; if they'll be -- if
18 they're white, they'll be shown Montgomery
19 County.
20 The algorithms can create those kinds
21 of rules. Whether -- characterizing that as
22 neutral loses its force once the defendant knows
23 it's happening. You know, to some extent,
24 algorithms and computer functions can run amok,
25 but you can't call it neutral once the defendant

1 knows that its algorithm is doing that. And
2 this runs a little bit into the issue that we'll
3 be talking about tomorrow.
4 Two short points and then one closing
5 item. With regard to Rule -- Section (f)(4), I
6 said this before, I just want to reiterate it,
7 Section (f)(4) does not apply to systems or to
8 information services. It only applies to
9 software providers. The language of the statute
10 is very specific.
11 And with the question about the
12 possible implications of the decision in -- in
13 Taamneh, it -- it is fair -- it is normal
14 practice in the district court when there's a
15 motion to dismiss to permit the plaintiff to
16 amend to deal with the relevant standard, and
17 that's exactly what we ought to be afforded an
18 opportunity to do.
19 Thank you very much.
20 CHIEF JUSTICE ROBERTS: Thank you,
21 counsel. The case is submitted.
22 (Whereupon, at 12:44 p.m., the case
23 was submitted.)
24
25

Official

1

1 [3] **36**:9 **113**:14,18
1,000,692 [1] **140**:14
10 [1] **141**:14
10:03 [2] **1**:15 **3**:2
101 [1] **51**:18
114 [1] **2**:11
12:44 [1] **164**:22
1300s [1] **130**:13
161 [1] **2**:14
18 [1] **130**:13
1996 [12] **10**:20 **46**:23 **47**:19 **53**:17,18 **54**:2,5 **63**:5 **79**:17 **104**:1 **124**:7 **133**:21
1997 [1] **134**:15

2

2 [2] **36**:10 **156**:10
2.3 [1] **45**:11
20 [1] **113**:14
2005 [1] **120**:1
2023 [1] **1**:11
21 [1] **1**:11
21-1333 [1] **3**:4
21st-century [1] **28**:2
230 [51] **10**:8,10 **16**:7 **24**:25 **33**:6 **39**:2 **42**:19,22 **52**:13 **58**:21 **59**:8 **60**:6,16,18 **61**:4 **62**:8 **64**:20 **66**:14 **100**:3,16 **101**:2,12 **103**:25 **105**:6,25 **110**:5 **111**:2,4,10 **113**:5,15 **115**:10 **117**:1 **121**:24 **124**:22 **127**:6 **129**:2 **130**:23 **131**:8,10,14 **133**:3,19 **135**:2 **143**:20 **144**:6 **146**:18 **155**:13 **156**:10,13 **160**:14
230's [1] **141**:7
230(c [4] **97**:23 **109**:10 **118**:25 **135**:11
230(c)(1 [25] **3**:11,17 **4**:2,13 **72**:6 **73**:12,20 **75**:19 **77**:4 **78**:5 **80**:13,24 **85**:23 **86**:1 **87**:6 **93**:9 **94**:4,5 **95**:13,17 **107**:3 **109**:4,19 **112**:8 **114**:16
230(c)(1)'s [2] **65**:10 **115**:2
230(f)(4 [1] **48**:5
231 [3] **4**:2 **105**:6 **109**:4
24/7 [1] **139**:25
26 [1] **115**:2
26-word [2] **17**:20,20
267 [1] **52**:24

3

3 [1] **2**:4
3.5 [1] **120**:11
30 [1] **141**:15
303 [1] **130**:25
34a [1] **100**:17

5

50 [1] **122**:23
500 [1] **148**:18

7

70 [1] **2**:8

9

92 [3] **133**:25 **134**:18,19
94 [1] **133**:25
96 [2] **134**:19 **145**:20

A

a.m [2] **1**:15 **3**:2
abandoned [1] **19**:17
abandoning [1] **20**:8
abet [1] **25**:7
abetted [1] **115**:11
abetting [23] **9**:8 **20**:9,10 **22**:4 **24**:15 **25**:3,16,17,19 **26**:1 **30**:18 **31**:14,17 **32**:6,9,14 **33**:22 **41**:10 **59**:11 **60**:6 **65**:2 **66**:7 **81**:3
ability [1] **16**:10
able [4] **113**:4 **114**:9 **115**:23 **143**:1
above-entitled [1] **1**:13
absolutely [6] **51**:21 **141**:8 **151**:14 **152**:12 **154**:22 **158**:20
absolve [1] **108**:24
abstract [2] **42**:14 **152**:11
accept [4] **24**:11 **40**:12 **46**:6,7
accepting [2] **41**:1 **115**:19
access [12] **13**:16 **16**:19 **17**:24 **18**:23 **48**:5 **49**:3 **53**:3,7 **100**:22,24 **101**:2 **102**:10
accessed [1] **159**:15
accesses [1] **59**:19
accessing [2] **59**:22 **60**:4
accident [1] **93**:19
according [1] **49**:22
account [6] **10**:4 **54**:21,22 **120**:15 **138**:24 **162**:11
accurate [1] **104**:12
accused [1] **150**:5
achieved [1] **126**:13
acknowledges [1] **77**:2
across [5] **5**:16,19 **8**:17,18 **124**:4
act [7] **24**:24 **51**:18 **73**:19 **81**:1 **85**:22 **99**:25 **112**:4
acting [11] **4**:14 **8**:5 **24**:3,7 **34**:15,19,25 **36**:14 **67**:5 **88**:22 **155**:15
action [19] **3**:24 **15**:7,11,14,15,16 **57**:15 **73**:8 **78**:18 **86**:5 **87**:3 **95**:10,16 **97**:4,21 **98**:1 **109**:5 **124**:5,12
actionable [12] **9**:10 **13**:1,3 **19**:10 **57**:14 **58**:1 **72**:21 **92**:19 **95**:18 **101**:18 **112**:20 **119**:24
actions [5] **16**:19 **33**:13 **86**:18,22 **149**:21
active [1] **41**:2
activities [2] **8**:21 **151**:7
activity [3] **4**:20 **49**:5 **53**:24
acts [1] **94**:13
actual [3] **8**:12 **80**:14 **135**:7
actually [15] **6**:13 **29**:8,10 **63**:21 **64**:24 **67**:16 **68**:10 **111**:20 **113**:1,12,24 **123**:8 **156**:7 **158**:13 **161**:7
ad [1] **144**:1
added [1] **90**:14
addicted [1] **161**:17
adding [1] **99**:21
addition [1] **13**:4
additional [2] **11**:11 **145**:7
address [5] **25**:20 **46**:24 **87**:2 **112**:9 **132**:17
addressed [2] **36**:21 **121**:13
addressing [4] **70**:25 **103**:24 **122**:13 **126**:15
adequacy [1] **98**:21
adequate [1] **22**:25
administration [1] **74**:17
adopt [5] **4**:23 **31**:5 **47**:5 **55**:23 **97**:13
adopted [1] **134**:6
adopting [1] **117**:11
adornment [1] **96**:25
adult [2] **128**:20,20
advance [1] **20**:5
advanced [1] **63**:18
advancing [3] **61**:23 **66**:19,21
advertise [1] **106**:23
advertising [1] **141**:13
affirmative [3] **34**:5 **94**:13 **97**:21
affirmatively [2] **33**:18,24
afforded [1] **164**:17
afoul [2] **24**:1 **57**:20
afraid [1] **34**:7
agree [7] **48**:16 **58**:10 **82**:7,9 **106**:12 **128**:2 **152**:5
agreement [1] **83**:8
agrees [2] **115**:10 **146**:8
ahead [7] **11**:24 **27**:9,14,20 **45**:9 **63**:6 **80**:19
aid [1] **25**:6
aided [1] **115**:11
aiding [24] **9**:8 **20**:8,10 **22**:3 **24**:14 **25**:3,16,17,19,25 **30**:18 **31**:13,17 **32**:6,9,14 **33**:21 **41**:9 **58**:10 **59**:11 **60**:6 **65**:2 **66**:7 **81**:3
aiding-and-abetting [3] **25**:24 **33**:14 **58**:19
air [1] **119**:14
AL [1] **1**:3
al-Baghdadi's [2] **31**:15 **32**:5
algorithm [61] **5**:14,16,19,23,25 **6**:24 **7**:12,18 **8**:1,17,20 **10**:1,16,16 **11**:2,10,13,14 **12**:15,18 **18**:11 **22**:1 **24**:17,21 **25**:2,13 **40**:20,21,24 **41**:5,9,17,21,25 **42**:3 **43**:3 **51**:15 **69**:9 **79**:6 **101**:23 **104**:16 **105**:4 **108**:5 **111**:23 **126**:25 **127**:1 **128**:8,25 **132**:8,25 **136**:19 **142**:16 **148**:3 **152**:20,24 **153**:4 **157**:9 **158**:6 **163**:9,11 **164**:1
algorithms [24] **5**:12 **6**:18 **9**:24 **10**:14 **11**:7 **12**:1 **18**:15 **50**:14 **56**:5 **81**:10 **104**:11,22 **114**:10 **119**:15,16 **127**:15 **133**:22 **152**:18,25 **154**:23,25 **155**:2 **163**:20,24
ALITO [43] **13**:11,18,21,24 **14**:3,8,14,17 **15**:3 **34**:6,7,24 **35**:8,16,23 **36**:6,13,19 **37**:8,15,20 **46**:22 **90**:3,4,9,21 **91**:18,24 **92**:5,14,25 **93**:3,14,23 **94**:16,23 **96**:1 **146**:25 **147**:5,8,18 **149**:10 **150**:17
Alito's [2] **103**:18 **155**:22
allegation [4] **77**:4 **103**:2,4 **144**:2
allegations [4] **73**:14,17 **90**:15 **98**:21
allege [3] **98**:16 **128**:12 **155**:1
alleged [3] **93**:7 **94**:3 **134**:7
alleges [2] **154**:3,9
allowing [2] **73**:21 **94**:14
allows [3] **37**:4,10 **94**:10
almost [6] **33**:1 **75**:15 **138**:1,5 **150**:4 **153**:16
alphabetical [2] **123**:1 **161**:15
alphabetically [1] **159**:2
alter [1] **7**:19
alternative [1] **50**:24
although [2] **70**:13 **118**:22
amazing [1] **150**:2
Amazon [2] **116**:16 **134**:15
ambiguity [1] **84**:13
amend [2] **59**:3 **164**:16
Amendment [3] **48**:10 **101**:10 **107**:1
amendments [1] **79**:15
amici [6] **54**:11 **79**:22 **80**:2 **105**:20 **130**:7 **160**:25
amicus [8] **1**:22 **2**:7 **55**:13,19 **70**:21 **87**:15 **151**:15 **157**:24
amok [1] **163**:24
among [1] **48**:6
amount [1] **130**:8
amounts [1] **32**:14
amplify [2] **76**:11 **95**:1
amplifying [2] **43**:4 **99**:3
analogies [1] **78**:23
analogous [3] **26**:12 **29**:9 **51**:17
analogy [6] **26**:5,21,24 **27**:1,10 **79**:9
analysis [6] **51**:7 **80**:23,25 **81**:1 **86**:3 **93**:22
analytically [1] **130**:21
analyze [2] **96**:8 **101**:6
analyzed [2] **85**:12 **88**:2
analyzing [8] **48**:7,11 **49**:2,9,14 **50**:1 **101**:1 **151**:5
anodyne [1] **126**:10
another [21] **4**:4 **30**:21 **38**:5 **48**:9 **70**:6 **75**:23 **84**:16 **89**:23 **91**:15 **95**:9 **96**:10 **101**:21 **102**:1 **115**:5 **117**:16 **118**:20 **119**:7 **132**:18,20 **138**:11 **147**:15
answer [8] **28**:25 **44**:14,17,22 **47**:12 **67**:8 **88**:15 **127**:5
answered [1] **37**:21
answering [4] **28**:6 **32**:17 **63**:25 **88**:6
answers [2] **38**:24 **39**:16
Anti-Terrorism [4] **73**:19 **81**:1,15 **85**:22
antitrust [4] **86**:18 **89**:2,8 **105**:11
anybody [5] **9**:25 **24**:21 **61**:12 **122**:22 **154**:11
anytime [3] **61**:9 **76**:17 **119**:9
apart [1] **6**:7
app [1] **42**:2
appeals [2] **54**:7 **55**:2
appear [4] **104**:16 **108**:19 **119**:13,14
APPEARANCES [1] **1**:17
appears [2] **140**:6 **160**:13
appendix [1] **52**:24
applicable [5] **78**:5,15 **88**:8 **98**:6 **119**:1
applicants [3] **77**:14,21,22
application [3] **5**:12 **7**:12,19
applied [2] **102**:2 **152**:15
applies [11] **4**:13 **7**:22 **9**:20,21 **12**:24 **13**:10 **74**:23 **124**:16 **130**:23 **160**:14 **164**:8
apply [15] **4**:6 **13**:8 **31**:10 **46**:19 **48**:22 **52**:18 **53**:7 **71**:16 **131**:8 **137**:24 **138**:2,9 **146**:19 **153**:10 **164**:7
applying [1] **81**:10
appreciate [2] **45**:8 **76**:13
appropriate [4] **102**:6 **153**:9,10,21
area [1] **46**:11
areas [2] **89**:12,14
aren't [5] **13**:2 **24**:16 **31**:5 **57**:14 **147**:10
argue [1] **18**:4
arguing [11] **16**:1 **20**:11,13,17 **31**:8 **35**:9 **69**:25 **70**:3 **73**:17 **92**:17 **122**:2
argument [31] **1**:14 **2**:2,5,9,12 **3**:4,7 **12**:7 **15**:24 **34**:8 **35**:9 **49**:18 **61**:15,23 **63**:14,

16 **64**:16 **65**:17 **69**:15 **70**: 20 **76**:24 **80**:20 **92**:21 **100**: 12,18 **101**:13 **114**:23 **130**: 22 **145**:2 **159**:16 **162**:2
arguments [2] **65**:14 **123**: 19
arise [1] **4**:1
arising [1] **64**:17
around [7] **15**:24 **46**:25 **91**: 2 **115**:20 **146**:11 **156**:21 **160**:3
arranging [1] **102**:15
article [1] **108**:13
articles [3] **108**:9,10,13
articulate [2] **66**:18 **68**:19
artificial [6] **49**:21,23 **50**:14 **74**:4,15 **101**:20
Asian [1] **42**:5
aspect [2] **102**:9 **107**:20
aspects [1] **88**:12
assert [1] **15**:11
asserts [1] **15**:16
assess [1] **83**:3
assessment [1] **83**:20
Assume [7] **38**:21 **40**:15 **50**:3 **83**:10,11 **96**:21,23
assuming [2] **18**:4 **78**:4
assumption [1] **156**:16
ATA [4] **86**:4,11 **95**:6 **100**:1
attempt [2] **107**:4,5
attempts [1] **114**:12
attention [1] **162**:25
attractive [1] **125**:25
audience [1] **133**:13
authentically [1] **83**:25
automated [1] **10**:24
automatic [1] **61**:7
automatically [5] **23**:23 **25**:14 **30**:10 **37**:1 **139**:14
automobile [1] **93**:19
Autoplay [1] **162**:19
available [1] **129**:17
aware [1] **161**:4

B

back [21] **10**:19 **15**:22 **24**: 15 **31**:3 **43**:9 **47**:16 **54**:2, 12,25 **58**:6 **63**:3 **65**:5 **85**:7 **102**:24 **107**:12 **113**:5 **114**: 3 **127**:18 **143**:11 **155**:21 **163**:8
backdrop [1] **68**:12
background [1] **65**:16
bad [5] **83**:2 **133**:17 **141**:14 **153**:24 **157**:21
banner [1] **111**:15
barred [1] **145**:6
Barrett [42] **58**:4,5,14,18 **59**:6,25 **60**:9,13,17 **61**:13, 20 **62**:3,11,18,24 **63**:8,20 **64**:1,7,10 **84**:7,9,19,20 **85**: 14 **86**:6 **107**:10,11,22 **108**: 3 **109**:7 **110**:2,21 **130**:16 **141**:2 **142**:1,15 **143**:6,10, 20 **145**:15 **155**:10
bars [3] **115**:9,10 **146**:9
based [34] **3**:14,24 **4**:7 **6**:24 **15**:7,16 **35**:12 **71**:21 **72**:13 **78**:16 **80**:3 **81**:17 **85**:3 **92**: 1 **93**:10 **103**:1 **104**:20 **115**: 13 **116**:15 **120**:21 **121**:18 **130**:9 **133**:22 **134**:13,17 **141**:25 **142**:11,11,22 **144**: 17 **145**:6 **146**:21 **148**:19,20
basic [2] **56**:14 **118**:4
basically [11] **12**:11 **73**:15 **84**:2 **88**:19 **104**:4 **107**:24 **117**:8 **125**:23 **126**:5,6 **153**: 15
basing [3] **6**:23 **35**:14 **148**: 25
basis [8] **73**:1,3 **88**:18 **110**: 18,20 **136**:7 **140**:19 **159**:20
bear [1] **135**:4
become [2] **24**:14 **49**:7
becomes [3] **50**:4 **105**:5,25
begin [1] **70**:25
beginning [1] **80**:21
begs [1] **101**:22
behalf [8] **1**:19,24 **2**:4,11, 14 **3**:8 **114**:24 **162**:3
behavior [1] **114**:15
behind [1] **23**:9
believe [3] **38**:24 **39**:2 **91**: 22
believes [1] **85**:23
below [2] **40**:1 **85**:6
benign [3] **12**:20 **15**:2,5
best [3] **9**:19 **23**:12 **48**:20
better [2] **36**:21 **82**:19
between [24] **3**:12 **16**:17 **22**:19 **40**:25 **41**:4 **42**:1 **43**: 17 **56**:21,25 **57**:4 **71**:25 **73**: 23 **75**:13 **85**:18 **100**:21 **110**:10 **111**:1 **122**:14 **131**: 1 **140**:19 **142**:10 **143**:14,15 **150**:24
beyond [10] **24**:4 **49**:13,17, 25 **94**:6 **101**:15 **109**:1 **117**: 1,3 **122**:16
biased [3] **128**:22 **150**:6 **154**:23
big [4] **72**:5 **80**:25 **149**:18 **160**:24
bigger [1] **82**:17
billion [4] **45**:12 **120**:11 **148**:15,16
billions [4] **79**:1 **145**:13,13, 13
bit [7] **15**:23 **45**:24 **78**:14 **80**: 20 **84**:13 **86**:25 **164**:2
black [6] **42**:5 **77**:22 **141**:5 **142**:24,25 **163**:16
blanket [1] **61**:4
BLATT [76] **1**:24 **2**:10 **36**: 22 **50**:24 **77**:2 **111**:21 **114**: 22,23,25 **116**:23 **117**:2 **119**: 2,21 **121**:10 **122**:11 **123**:15 **124**:24 **126**:22,23 **127**:8,20 **128**:1,14 **129**:3,23 **130**:24 **131**:9,12,16,22 **133**:1,5 **135**:1,6,9,23 **136**:25 **138**: 19 **139**:22 **141**:2,8 **142**:5, 21 **143**:9,19,21 **145**:19 **147**: 4,6,9 **148**:1 **149**:16 **150**:21 **151**:13 **152**:7,12 **153**:12,22 **154**:21 **155**:5,7,18 **156**:1,4, 14 **157**:2,5,14,17 **158**:11, 18,20 **159**:19 **160**:6,15 **161**: 9
Blatt's [2] **46**:6 **109**:12
block [15] **16**:4,11 **18**:21,24 **65**:12,20 **66**:2,12 **93**:7,7 **94**:3 **111**:7,9,17 **122**:5
blocked [1] **18**:14
blocking [6] **18**:6 **68**:22 **124**:23 **135**:12,15 **138**:23
blurb [2] **87**:14,17
board [2] **5**:17,21
Bob [1] **162**:14
body [2] **54**:25 **55**:7
book [16] **26**:7,9 **57**:16 **60**: 23 **71**:7,10,11,17,17,18 **72**: 5,21 **88**:16 **128**:20,21 **131**: 3
books [9] **26**:7,11 **29**:16,18, 18 **30**:3 **71**:12 **72**:18 **73**:11
bookseller [5] **26**:10 **71**:13 **72**:4,16 **92**:12
booksellers [1] **71**:6
bookstore [3] **29**:15 **128**: 19,20
boost [1] **89**:4
borderline [1] **78**:13
both [5] **58**:18 **85**:20,21 **124**:5,5
box [5] **39**:16 **113**:9 **155**:24 **157**:8 **163**:1
boy [1] **46**:8
break [1] **19**:11
brief [15] **11**:6,6 **16**:1 **31**:21 **51**:14 **65**:9,14 **68**:19 **77**:3 **96**:7 **107**:23 **144**:23,23 **146**:3 **148**:25
Briefly [1] **48**:19
briefs [12] **4**:22 **55**:14,19 **56**:20 **63**:10 **69**:24 **87**:15 **126**:2 **130**:7 **151**:15 **157**: 24 **161**:1
bring [1] **53**:13
brings [1] **113**:9
broad [2] **54**:6 **89**:11
broadcast [1] **133**:11
broadcasting [3] **115**:12 **132**:22 **155**:19
broaden [1] **47**:17
broader [1] **37**:17
broadly [1] **59**:15
brought [2] **65**:24 **86**:22
built [1] **127**:6
bulk [1] **151**:6
bunch [4] **10**:21 **28**:17,22 **142**:6
burden [1] **82**:20
business [2] **35**:18 **161**:1
buy [2] **17**:23 **134**:16

C

c)(1 [22] **38**:9,10 **68**:20,25 **91**:22,23 **102**:18,19 **103**:10 **115**:3,9,20,24,25 **123**:20 **125**:4,7 **137**:23,25 **138**:9 **139**:14 **150**:24
c)(2 [10] **68**:25 **69**:6 **125**:4,5, 7,10 **137**:14,24 **138**:2 **139**: 15
cahoots [1] **24**:20
call [17] **20**:18 **27**:4,4 **31**:15, 16 **55**:6 **75**:11 **83**:25 **105**:8 **112**:3 **113**:23 **114**:6 **115**: 14 **120**:13 **140**:3 **141**:24 **163**:25
called [6] **32**:3,4 **113**:23 **119**:4,18 **134**:2
came [2] **1**:13 **77**:18
candidates [1] **53**:1
cannot [2] **138**:19 **160**:12
cards [1] **10**:21
care [2] **157**:22 **160**:23
carefully [1] **71**:24
carry [1] **89**:1
cartoon-like [1] **126**:11
cartoons [1] **163**:2
carve [1] **133**:6
carves [1] **49**:6
Case [56] **3**:4 **4**:22 **5**:13 **7**: 10 **15**:6 **17**:16,19 **20**:20,24 **21**:15 **28**:17,20 **33**:16 **48**:3 **50**:17 **55**:9 **58**:8,10,13,14, 15,15,24 **59**:2,4 **63**:10 **64**: 21 **66**:13 **69**:13 **75**:11 **76**:6, 15 **80**:19 **81**:9 **83**:2,7 **84**:2 **91**:11,13 **97**:16 **102**:5 **108**: 4,15,18 **110**:9 **111**:13 **113**: 19 **128**:5 **130**:25 **134**:7 **139**:3 **144**:13,25 **154**:25 **164**:21,22
cases [8] **7**:24 **46**:25 **71**:23 **78**:13,13 **79**:25 **85**:20 **146**: 17
cat [4] **28**:12,14,17 **81**:12
catalogue [5] **29**:14,17 **30**: 3,5 **51**:16
category [1] **32**:15
cats [1] **81**:14
causal [1] **99**:24
causation [1] **95**:7
cause [14] **15**:7,11,13,15, 16 **55**:15 **57**:15 **73**:8 **78**:17 **88**:22 **95**:9,16 **109**:5 **124**: 12
caused [1] **144**:25
causes [3] **87**:3 **104**:16 **124**:5
cautionary [1] **162**:8
celebrate [1] **142**:24
Center [1] **133**:23
cert [1] **85**:20
certain [12] **9**:12 **42**:25 **43**: 1,4 **47**:1 **67**:10 **76**:11 **105**: 4 **111**:5 **113**:2 **132**:3 **147**:1
Certainly [7] **43**:19 **81**:23 **85**:11 **89**:12 **148**:7 **154**:15 **162**:20
cetera [3] **95**:8 **102**:15 **141**: 6
challenge [2] **54**:9 **56**:14
change [2] **10**:25 **82**:21
changed [1] **79**:15
channel [7] **121**:3,4,5,7 **131**:4 **133**:11,12
channels [1] **148**:20
characterization [1] **83**:6
characterized [1] **162**:12
characterizing [2] **66**:22 **163**:21
charming [1] **163**:2
chat [2] **20**:15 **47**:18
cheapest [1] **11**:8
check [3] **61**:17 **62**:7 **110**:4
checkmarks [1] **118**:2
chef [1] **91**:2
CHIEF [46] **3**:3,9 **8**:7 **26**:2, 18 **27**:3,13,17,19 **28**:16 **29**: 25 **30**:6 **34**:6 **37**:22 **42**:16 **47**:24 **52**:1 **58**:3 **64**:11 **70**: 17,23 **71**:8 **78**:21 **79**:20 **86**: 7 **87**:9,20 **89**:10,25 **90**:16 **96**:19 **98**:23 **100**:8 **103**:15 **107**:9 **110**:22 **114**:19,22,25 **118**:10 **119**:12 **150**:14 **155**: 8 **161**:24 **162**:4 **164**:20
Chief's [1] **82**:18
choice [25] **53**:9 **74**:11,16, 18 **75**:13,20 **76**:7 **77**:9 **78**: 16 **79**:19,21,23 **98**:14 **105**: 10 **108**:21 **110**:12,17 **112**: 17 **116**:1,5 **128**:22 **129**:20 **132**:22 **133**:18 **143**:16
choices [27] **72**:10,11 **73**: 25 **75**:17,18 **76**:3,6,10,19 **77**:7,25 **79**:13 **83**:9 **84**:18 **94**:13 **98**:11 **99**:6 **108**:20 **110**:19 **123**:18 **130**:8 **131**: 1 **143**:12 **148**:15 **160**:10 **161**:8,12
choose [2] **101**:6 **116**:10
chooses [1] **52**:9
choosing [9] **48**:7,11 **49**:1, 9,13 **50**:1,10 **101**:1 **151**:5
chosen [1] **163**:6
chronological [1] **159**:2
Circuit [16] **3**:21 **17**:18 **50**: 16 **91**:13 **100**:14 **102**:2 **128**:4 **143**:22,24 **144**:12,12, 20 **145**:17 **151**:22 **152**:14 **153**:25
Circuit's [8] **49**:19 **50**:11 **128**:6 **146**:1 **153**:8,13,20, 25

circulated [1] **87:**14
circulating [2] **88:**23 **90:**13
circumstances [11] **4:**9 **13:**2 **14:**20 **32:**21 **50:**13 **57:**25 **74:**24 **79:**14 **90:**5 **104:**2 **112:**18
circumvent [1] **115:**24
civil [1] **94:**18
civilly [1] **91:**7
claim [64] **3:**24 **4:**7 **5:**11 **6:**7 **8:**6 **9:**2,4,6,10 **16:**9,9,14,22 **17:**2,6,8 **18:**10,20 **20:**6,8 **25:**19,24 **33:**14,23 **34:**14 **42:**13 **58:**9 **63:**18 **64:**23 **65:**18,18,21 **66:**12 **71:**22 **73:**18 **85:**2,9 **89:**3,7 **111:**8 **115:**9,11 **117:**13 **118:**13 **121:**15 **124:**16 **127:**6 **128:**16 **129:**4,4,5,11,14 **132:**10 **141:**9 **145:**6 **146:**19 **156:**7 **159:**13 **161:**5,10,11,13,14
claiming [2] **20:**16 **21:**15
claims [8] **3:**12,14,18 **57:**21 **66:**2 **98:**25 **143:**3 **161:**18
clarify [2] **85:**21 **145:**16
clarity [1] **120:**8
class [1] **149:**21
Clause [1] **106:**25
clean [1] **136:**14
cleaner [1] **39:**6
cleaning [1] **125:**9
clear [8] **5:**10 **18:**19 **55:**20 **65:**7 **78:**15 **82:**13 **96:**22 **102:**14
clearer [1] **5:**24
clearly [3] **6:**6 **21:**24 **84:**14
clerks [1] **10:**20
click [8] **6:**16 **23:**22 **30:**15,16,20,22 **44:**3,9
clicked [2] **23:**15 **44:**13
clients [1] **119:**15
close [3] **51:**13 **55:**19 **83:**25
closely [2] **67:**18 **91:**12
closing [1] **164:**4
code [1] **120:**1
collapse [2] **149:**11 **150:**13
colleague's [1] **162:**6
colleagues [1] **97:**19
colloquial [1] **154:**5
colloquy [1] **73:**13
collusion [3] **40:**23 **41:**2 **127:**12
come [4] **31:**3 **47:**4 **55:**6 **99:**16
comes [9] **15:**2 **26:**8 **31:**14 **39:**24,25 **42:**2 **43:**9 **145:**7 **152:**14
coming [3] **65:**4 **117:**15 **146:**15
comment [2] **30:**14 **90:**14
commentary [1] **87:**22
Commerce [1] **106:**24
commit [1] **87:**12
common [12] **3:**20 **88:**15 **90:**11,17 **91:**20 **97:**10 **104:**1 **110:**1 **113:**16 **119:**22 **121:**19 **145:**21
communicable [1] **91:**3
communicate [1] **115:**7
communicating [2] **115:**6 **155:**18
community [2] **132:**3,4
companies [4] **32:**23 **47:**8 **106:**23 **113:**20
company [2] **3:**13 **100:**15
company's [1] **3:**14
competition [1] **45:**13
competitor [2] **89:**6 **90:**23
compilation [2] **51:**17,19
complain [1] **143:**1
complaining [1] **42:**21
complaint [34] **19:**12 **21:**24 **22:**20,24,25 **23:**2 **28:**18 **39:**1 **58:**7,8,9,12 **59:**4 **73:**15,16 **78:**6,9 **85:**15,17 **97:**16 **128:**7,12 **129:**16 **140:**7 **147:**11,14 **152:**7,10 **153:**16,17,24 **154:**3,8,17
complaints [2] **91:**16 **154:**16
complete [2] **142:**8,22
completely [3] **34:**8 **91:**5 **132:**15
complex [1] **70:**15
complicated [1] **28:**13
components [1] **70:**13
CompuServe [1] **53:**19
computer [26] **4:**15,16,18 **24:**4,8 **33:**25 **38:**3 **40:**6 **41:**5 **52:**8,12,21,25 **53:**14 **59:**24 **60:**3 **67:**6 **70:**9 **100:**21 **101:**3 **102:**17 **106:**2 **123:**22 **150:**25 **152:**3 **163:**24
computers [2] **18:**23 **34:**1
concede [1] **58:**22
conceivable [1] **75:**21
conceivably [1] **72:**20
conceiving [1] **66:**16
concepts [1] **64:**18
conceptually [1] **136:**22
concern [5] **15:**5 **45:**19 **77:**11 **135:**2 **137:**12
concerned [9] **26:**23 **30:**17 **87:**1 **99:**15 **112:**21 **114:**8 **123:**13 **154:**23 **156:**19
concerns [2] **54:**18,18
concession [1] **145:**4
conclude [1] **163:**11
concludes [1] **3:**23
conduct [24] **3:**15 **4:**20 **8:**2 **9:**11 **16:**3,4 **34:**5 **45:**22 **67:**11 **68:**23 **69:**3 **80:**12 **82:**4 **105:**9,15 **111:**2,5,6,7 **122:**6 **129:**7 **141:**23,24 **146:**23
configured [1] **89:**4
conflating [2] **64:**19 **65:**6
confused [3] **34:**8 **64:**14 **72:**16
confusion [2] **64:**16 **68:**5
Congress [36] **46:**14,15 **47:**5,17 **53:**10 **54:**5,18 **63:**5 **68:**21 **79:**14,19,21,22 **82:**20,20 **89:**16,19 **92:**15 **108:**23,24 **111:**4 **112:**13 **113:**15 **116:**5 **121:**23 **123:**13 **126:**13,21 **135:**13,21 **136:**6,11 **138:**14,17 **140:**21 **157:**19
Congress's [3] **53:**9 **113:**6 **116:**1
connection [1] **144:**3
consensus [1] **54:**10
consequence [1] **72:**3
consider [3] **50:**17 **82:**21 **131:**20
consistent [2] **55:**1 **136:**23
constitute [2] **13:**22 **41:**9
construed [1] **92:**24
consumers [1] **54:**16
contain [1] **153:**5
content [177] **3:**13,19,25 **4:**1,4,5,8,10 **6:**21 **8:**10 **9:**4 **11:**11 **12:**2,4,5 **13:**9 **14:**25 **15:**8 **16:**5,11,11,18 **17:**4,7 **21:**21,23 **23:**14 **29:**5,7,20,22 **30:**2 **33:**19 **35:**6,6,7,12 **36:**16,17 **38:**5 **39:**12 **44:**19 **48:**8,11,12 **49:**2,7,9,14,22,25 **50:**2,8,15 **51:**23 **52:**9 **56:**22 **57:**7 **59:**13 **60:**10 **61:**16 **62:**9,11,12,23 **63:**15,22,23 **65:**5,13,20 **67:**3 **70:**4,6 **71:**7,25 **72:**1,5,13 **73:**24 **74:**4 **75:**2 **76:**3,5,7,17 **77:**25 **78:**7,11 **80:**10 **82:**16 **84:**17 **87:**8 **88:**6,10,12 **89:**24 **90:**7 **93:**8 **96:**14 **100:**23 **101:**1,10,15,16,17,19 **102:**4,21 **103:**4,6,9,13 **104:**16 **105:**1,2,4 **106:**8,18 **107:**7,17,25 **108:**8,25 **109:**14 **111:**8,16 **113:**13 **115:**18 **116:**20 **117:**10,11 **118:**20 **122:**6 **124:**21 **125:**13,16,21 **126:**16 **128:**10 **129:**11,15 **130:**3,4,9 **131:**1 **132:**6,9 **133:**8 **134:**23 **137:**4 **140:**6,13,13 **141:**11,19 **142:**3 **143:**16 **146:**16 **147:**3 **148:**4,19 **151:**1,6,9,10 **152:**2,19,21 **154:**5,7 **155:**2,17 **157:**10 **158:**7 **160:**10,19
content's [1] **67:**3
content-neutral [1] **131:**21
contention [6] **17:**25 **23:**16 **24:**7 **36:**23 **66:**18,20
contents [3] **71:**17 **73:**11 **92:**20
context [9] **33:**11 **48:**14,15 **53:**17 **63:**2 **79:**10 **121:**13 **124:**21 **151:**8
contexts [1] **28:**4
continually [1] **54:**4
continue [3] **45:**6 **47:**11 **94:**10
continuum [4] **117:**5,6,19 **156:**5
contribute [1] **144:**17
conversation [1] **63:**3
convey [1] **4:**11
conveying [1] **160:**20
conveys [5] **60:**21 **115:**17,22 **159:**22 **160:**2
cooking [5] **5:**15 **6:**1,2 **7:**1,4
Copyright [1] **51:**18
copyrightable [1] **51:**20
core [3] **111:**2 **118:**6 **143:**4
correct [23] **7:**17 **19:**20 **20:**11,12 **38:**9,10 **40:**3 **42:**8 **51:**6 **63:**2,16 **97:**8 **103:**21 **104:**5 **105:**6 **110:**7 **123:**16 **128:**1 **131:**22 **145:**20,25 **151:**14 **152:**12
correctly [2] **3:**21 **146:**18
cost [1] **51:**2
costs [1] **45:**22
coterminous [1] **137:**13
couldn't [1] **150:**7
counsel [7] **26:**3 **70:**18 **86:**8 **114:**20 **150:**15 **161:**25 **164:**21
count [1] **60:**3
countless [2] **10:**4 **116:**17
country [2] **55:**16 **78:**25
County [3] **163:**13,17,19
couple [6] **7:**23 **55:**18 **56:**19 **70:**1 **76:**22 **136:**25
course [4] **86:**5 **88:**12 **89:**22 **152:**10
COURT [28] **1:**1,14 **3:**10 **4:**17,23 **5:**4 **31:**5 **45:**18 **46:**1,15,19 **55:**20,23 **70:**24 **71:**22 **78:**18 **82:**13 **83:**22,25 **84:**1,2 **85:**19,23 **115:**1 **139:**3 **144:**5 **162:**5 **164:**14
Court's [4] **5:**8 **72:**14 **75:**7 **83:**13
courts [9] **5:**2 **7:**23 **54:**7 **55:**1 **65:**11 **68:**11 **83:**8 **121:**25 **146:**18
cover [2] **63:**6 **139:**19
covered [13] **16:**7 **17:**9 **18:**5 **67:**13 **140:**9 **156:**3 **157:**15,16 **158:**17,19 **159:**11,20 **161:**22
covers [3] **17:**2 **18:**6 **135:**2
crafting [1] **139:**1
crash [1] **54:**15
crazy [1] **121:**8
create [15] **12:**3 **20:**14 **34:**21 **41:**5 **42:**3 **51:**15,16,22 **54:**13 **59:**13 **70:**4 **76:**12 **89:**19 **97:**25 **163:**20
created [20] **3:**13 **4:**8 **6:**21 **21:**12 **29:**15,19,22 **35:**6,20 **38:**16 **39:**6 **60:**9 **62:**10,12 **67:**3 **93:**22 **103:**4 **115:**2 **151:**16,18
creates [3] **62:**16 **91:**1 **107:**17
creating [11] **24:**17 **61:**16 **63:**22 **65:**5 **74:**4 **76:**16 **98:**2 **99:**4 **108:**1 **136:**18 **163:**9
creation [3] **34:**21 **40:**24 **62:**12
credit [2] **144:**16,17
criminal [2] **127:**11 **138:**3
criteria [6] **78:**2,10,14,19 **130:**19 **142:**11
criterion [1] **103:**8
critical [1] **108:**10
crushing [1] **150:**4
curiae [3] **1:**22 **2:**8 **70:**21
cuts [1] **122:**21

D

D.C [3] **1:**10,21,24
damages [1] **57:**3
danger [1] **117:**17
date [1] **142:**14
dating [6] **42:**2 **97:**25 **116:**19 **141:**3 **142:**2,10
day [7] **57:**11 **78:**25 **79:**2 **89:**1 **120:**11 **148:**17 **149:**9
days [1] **153:**1
dead [2] **124:**10 **160:**18
deal [4] **59:**18 **72:**6 **131:**2 **164:**16
dealing [2] **126:**16 **137:**14
dear [1] **160:**2
death [1] **122:**20
decide [5] **78:**10 **103:**9 **106:**8 **128:**19 **133:**15
decided [2] **58:**25 **98:**9
decides [1] **113:**13
deciding [1] **148:**4
decision [10] **3:**21 **5:**1 **55:**9,9 **75:**21 **85:**25 **112:**9,11 **158:**5 **164:**12
decisions [10] **55:**8 **56:**20 **74:**5,7 **76:**24 **77:**3 **78:**24 **110:**14 **114:**2 **149:**9
decline [1] **5:**4
deeper [3] **122:**15 **137:**11,12
defamation [22] **12:**15 **46:**25 **61:**5 **86:**15 **87:**4,10,12 **88:**7,18 **91:**11 **95:**20 **96:**4,6,12 **97:**4 **119:**22 **124:**9,11 **129:**5 **137:**16 **161:**5,10
defamatory [33] **12:**4,22 **13:**7 **44:**4,14 **57:**17 **59:**24 **61:**10 **79:**7 **82:**1 **88:**10,12,17 **90:**7,15,18,22,22 **91:**4 **92:**8 **96:**1 **97:**8 **128:**25 **129:**17 **130:**20 **131:**18 **132:**18,20,22 **137:**2,3 **146:**16 **149:**14
defame [1] **120:**3

defeat [1] 52:15
defeats [2] 125:8,22
defective [2] 16:10 18:6
defendant [13] 3:18,25 4:7, 8,12,14 6:21 10:15 39:25 67:4 70:8 163:22,25
defendant's [3] 12:23 67:1, 5
defending [2] 154:19,21
defense [12] 4:6 7:21,25 12:24 13:7,8 15:19 24:2 41:16,23 59:1 64:23
defies [1] 116:21
defines [1] 48:5
definitely [1] 134:20
definition [6] 5:2 52:7 53:6 102:10,16 106:1
degree [1] 119:23
delineates [1] 53:6
delivering [1] 24:5
deluge [1] 149:24
Democracy [1] 133:23
Department [1] 1:21
depend [4] 44:22 72:25 98:6 112:25
depending [1] 30:25
depends [5] 29:23 38:11 39:3 96:6 157:17
deprive [1] 72:11
Deputy [1] 1:20
describe [6] 22:21 32:18 41:15 72:21 77:25 151:7
described [6] 66:20 70:14 71:9 73:10 98:12 104:3
describes [1] 87:16
describing [1] 96:2
design [2] 83:9 161:12
designed [4] 112:9 127:1, 23 153:1
desirable [2] 47:5,14
desktop [1] 163:1
destabilizing [1] 156:20
destroyed [1] 149:12
detail [2] 22:21 85:15
determine [1] 121:18
determining [1] 78:19
developed [4] 68:6 134:1 151:17,19
devised [1] 47:8
devises [1] 47:13
devoted [1] 132:2
differ [1] 57:11
difference [10] 8:8 24:8 43:17 57:3 85:18 108:4 110:10 111:1 112:19 114:1
different [42] 5:14 7:9,15 8:18 10:19 11:14 14:9 17:8 18:3 23:21 24:2 26:16 32:21 33:2 34:4 40:10 48:14 49:8 55:21 57:22 64:18,24 89:11 92:21 93:21 96:14 109:13 112:4 113:12,24 114:7 117:24 118:7 120:21 121:23 123:8 132:14,15 134:20 140:20 141:11 142:6
differently [1] 114:7
difficult [3] 21:11 74:2 109:18
difficulty [1] 46:10
digest [1] 101:7
digesting [8] 48:8,11 49:2, 9,14 50:1 101:1 151:6
digital [1] 54:15
diminish [1] 89:5
direct [4] 10:16 68:11 74:20 106:17
directed [3] 111:5 122:10 124:3
directly [3] 29:2 40:20 119:1
directs [2] 87:6 125:11
disagree [7] 60:1 62:3 102:9 106:10 133:21 136:5 159:6
disagreed [2] 107:21,22
disagreeing [1] 153:19
discriminate [1] 42:6
discriminated [1] 41:12
discriminates [4] 41:6 42:4 98:1 103:1
discriminating [1] 42:8
discrimination [6] 42:1 77:5 86:15 141:4,10,18
discriminatory [1] 153:6
discussed [1] 153:11
discussion [2] 43:21 86:16
disease [1] 91:3
disincentivize [1] 68:22
disincentivized [1] 122:5
diskettes [1] 53:21
dislocation [2] 54:14 55:16
dismiss [4] 58:24 59:3 98:10 164:15
dismissal [1] 71:21
dismissed [2] 75:23 98:19
disparate [1] 141:9
display [3] 13:12 111:15 148:4
displayed [3] 13:9 148:5 155:19
displaying [5] 6:9 13:14 29:7 34:16 154:11
displays [4] 6:12,13 35:2 120:12
disproportionately [1] 77:21
dispute [1] 122:13
disregarding [1] 7:24
disseminating [3] 3:25 139:24,25
dissemination [3] 138:16 145:5 156:16
distinct [5] 51:19 119:24 159:22,23 160:2
distinction [20] 3:15 9:1, 17 17:12,15 18:20 42:10 56:25 69:20 73:22 100:20 111:20 131:1 132:9 141:20 143:14,15 150:24 151:4, 17
distinguish [4] 16:17 22:19 71:24 142:9
distinguishes [1] 3:11
distinguishing [2] 56:21 140:19
distress [4] 86:17 88:21,23 124:14
distributing [1] 92:7
distributor [4] 92:5,11 103:18,25
district [1] 164:14
diversity [1] 140:24
docket [2] 75:8,11
document [1] 44:16
Doe [5] 44:2,16,17 60:24,25
doing [24] 4:19 11:1,16 22:7 25:8 29:12 34:15 40:20 43:4 55:25 61:8 65:22 66:15 67:12,16 91:17 109:13 111:14,23 128:22 136:13 139:21 146:5 164:1
done [7] 12:9 18:19 29:3 92:19 94:8 95:12 121:15
doubt [1] 109:25
doubtless [1] 6:13
down [30] 10:10 17:5 19:11 61:8 71:24 81:21 91:6 92:18 93:13 94:1 100:5 111:19 112:6,15 120:25 125:11, 21 126:4,5 132:7 136:13, 17 138:13 139:5,6,10,16 145:21 149:14 159:15
download [1] 38:8
dozens [1] 32:24
drafted [1] 54:6
draw [6] 9:1 17:15 40:25 54:25 97:15 110:1
drawing [5] 14:10 18:20 46:10 69:19 162:24
drawn [1] 3:15
drew [1] 46:25
drilling [1] 111:19
due [1] 81:3
Dyroff [2] 17:16 55:9

E

e-mail [11] 17:16,20 23:18 24:14 26:17 40:10 59:22 60:24 61:2,10 62:1
e-mails [1] 34:4
each [9] 3:15 7:20 31:9 63:18 67:25 68:1 121:14,17 148:17
earlier [9] 31:3 40:19 54:3 63:3 73:14 97:24 98:12 112:22 150:23
early [1] 91:13
earthquake [1] 149:4
easily [2] 98:19 137:19
easy [2] 28:17 128:5
economic [2] 54:14 55:15
economy [2] 54:15 55:13
edge [1] 83:24
editing [2] 155:16,17
editorial [3] 63:14 101:9 159:9
effect [3] 97:13 104:20,22
effects [1] 54:16
eight [1] 55:10
either [10] 69:6,24 73:9 107:25 110:6 114:15 127:15,25 146:21 154:19
election [1] 149:7
element [6] 24:2 52:19 63:18 124:1 138:6,8
elements [18] 3:23 7:21 25:18,24 31:10 42:13 51:20 68:1,4,8,16 69:22 88:25 94:22 95:5,7,10 99:13
elevated [1] 130:3
elevating [2] 131:24 149:4
eliminating [1] 124:4
else's [1] 90:18
embedded [3] 31:4 39:24 147:16
emoji [1] 158:1
emojis [1] 117:24
emotional [4] 86:17 88:20, 23 124:14
emphasize [1] 74:22
employee [1] 144:19
employees [2] 77:1 103:7
employers [1] 77:15
employment [3] 76:24 77:3 78:24
enacted [1] 123:14
encourage [5] 6:16 9:13 10:17 16:19 23:14
encouragement [2] 9:3 16:23
encouraging [6] 9:7 14:7 15:12 17:7 19:2 31:12
end [3] 57:11 61:9 163:9
endemic [1] 9:24
endorsement [4] 116:25 117:10 156:7 157:18
endorsements [1] 117:22
engage [1] 14:7
engine [12] 10:2 43:8,20 44:1 45:1 89:3 97:25 98:2, 11,15 137:8 151:8
engines [13] 43:22,23 49:15 106:7 116:14 120:15 130:5 134:22 140:8,9,19 148:2,24
enlist [1] 99:22
enormous [1] 79:13
enough [4] 60:12,14 95:15 143:2
ensures [1] 42:1
enter [1] 120:20
entertaining [1] 135:25
entities [1] 4:15
entitled [2] 59:3 102:18
entity [8] 42:24 51:19 59:19,20 60:1 63:12 91:19 102:11
equality [1] 132:1
equate [1] 104:23
equipped [1] 54:22
equivalent [1] 117:7
ERIC [5] 1:18 2:3,13 3:7 162:2
especially [2] 82:13 114:11
ESQ [4] 2:3,6,10,13
ESQUIRE [2] 1:18,24
essence [1] 52:15
essentially [3] 10:7 42:24 94:8
establish [2] 59:5 99:12
established [1] 89:13
ET [4] 1:3 95:8 102:15 141:6
ethnic [1] 132:4
Europe [1] 149:21
European [1] 45:11
euros [1] 45:12
even [39] 14:22 18:4 24:11 31:17 44:25 49:2,15,22 50:13 51:20 58:20 74:23 77:23 82:13 87:4,11 89:20 92:5 101:1,8,8,25 102:14 107:25 112:2 116:2 127:2 134:23 136:22 139:25 142:7,8 152:1,23,24 153:5 154:9, 10,12
event [1] 56:10
everybody [5] 9:18 36:23 40:22 114:4 123:12
everyone [1] 150:6
everything [6] 10:5 38:14 39:15 47:4 125:24 126:4
everywhere [2] 105:22 106:6
evident [1] 85:25
exact [4] 144:21,21 146:2,3
exactly [13] 5:25 19:22 29:24 41:11 75:12 86:20 91:11 100:7,7 135:21 151:20 157:2 164:17
example [27] 5:24 11:7 12:14 39:6 40:19 42:2 44:23 47:22 59:20 73:2 97:24 101:20 116:24 120:18 122:25 128:19 129:10,10 130:1, 12,18 132:19 133:10 135:18 141:15 143:25 144:25
examples [1] 153:2
excellent [1] 129:10
except [3] 127:8 128:3 138:17
excepted [1] 127:12
exception [1] 127:11
exceptions [3] 125:2 137:23,25
excessively [1] 133:11

exclusively [2] 39:21 73:11
excuse [2] 12:24 92:1
exemption [1] 61:4
exist [4] 46:23 63:4 79:17 111:24
existed [1] 99:5
existential [1] 116:13
existing [2] 83:7 84:1
expansive [1] 162:10
experts [1] 46:3
explain [6] 6:6 32:11 48:18 52:18 80:16 146:6
explicit [4] 88:2 95:21 133:16,16
exponentially [1] 134:25
exposed [1] 79:8
Exposing [1] 116:19
express [9] 56:4,7 94:16 104:12 117:4,18,19 140:4 158:13
expressed [2] 32:8 94:23
expressing [1] 118:7
extend [1] 12:8
extends [1] 135:18
extent [11] 18:10 29:10 65:4,21 67:11 83:7 121:11 122:7 139:3,15 163:23
external [1] 124:1
extraordinarily [3] 75:14 93:17 162:10
extreme [5] 38:21 39:10 41:2 114:14 117:9

F

f)(2 [3] 52:22,23,24
f)(3 [1] 49:6
f)(4 [6] 48:22 52:20 53:6,23 164:5,7
face [4] 12:19,19 20:22,25
Facebook [5] 21:4,5,7 42:23,25
fact [16] 7:18 11:13 33:24 46:11 62:14 72:10 77:6 81:9 88:24 92:7 94:25 96:16 108:19 113:22 147:20,23
facts [2] 45:10 98:16
failed [2] 17:5 19:15
failing [7] 65:12,19 66:2,12 93:12 111:17 112:15
failure [9] 16:4 18:24 71:22 92:18 93:7 94:3 111:6 138:13 144:18
Fair [4] 60:13 102:6 162:23 164:13
fairly [5] 15:2,13 22:21 117:13 119:18
faith [1] 135:15
fake [1] 91:1
fall [5] 41:15 42:12 51:24 66:22 102:16
falling [1] 46:7
falls [4] 4:20 29:3 80:12 103:25
false [2] 91:5 149:15
familiar [1] 22:22
family [2] 93:18 158:10
famous [2] 75:1 134:16
far [9] 19:8 21:13 24:25 30:17 32:21 39:2 92:15 118:12 133:4
fare [1] 11:8
fashion [2] 5:2 54:19
fate [1] 145:1
fault [2] 128:4,6
faulted [1] 128:11
feature [9] 22:1 23:20 24:18 115:15 134:16 149:8 157:20 158:13,14
featured [10] 155:24,24 156:6,9 157:2,8 161:15,16 162:17 163:3
features [4] 115:24 117:4 118:4 134:22
featuring [2] 142:20 149:5
February [1] 1:11
federal [3] 98:7 137:23 138:3
FedEx [3] 59:21,21,23
feed [3] 43:1,2,6
feel [2] 65:6 122:12
feeling [1] 64:17
few [5] 47:6 50:6 57:21 106:16 138:6
fighting [1] 143:7
figuratively [1] 126:7
figure [4] 9:19 26:19 145:10 147:12
figured [1] 10:22
file [1] 10:21
filters [1] 52:8
filth [2] 125:23 139:2
final [2] 36:20 75:9
financer [1] 144:10
find [8] 21:11 24:22 39:22 40:3,6 59:24 75:10 116:12
finding [1] 46:13
findings [2] 126:15 140:23
finds [1] 82:3
fine [3] 19:9 45:11 83:16
finish [2] 11:4 84:10
firm [1] 111:4
firms [1] 103:6
First [25] 3:17 43:11 44:7,12 48:10 53:4 55:18 70:1 76:22 83:14 94:25 99:2 101:10 103:17 107:1 108:12 116:11 122:12,17 125:21 127:19 137:9 140:13 158:14 160:11
fit [10] 9:11 27:7 43:24 47:9,15,20 67:17 68:16 79:9 91:11
fits [1] 48:3
fives [1] 118:2
flip [1] 151:3
Florida [1] 17:23
flourish [1] 126:17
flourishing [1] 140:25
flow [1] 141:22
flowing [3] 129:6 146:23 156:9
flows [1] 115:8
focus [7] 5:5 7:10 8:12 21:23 54:4 56:11 115:12
focused [6] 8:20 84:14 86:11 89:22 136:6,18
focuses [2] 67:10 73:10
focusing [8] 21:19 33:17,23 63:11,13,15 104:7 159:8
follow [2] 14:25 103:17
following [1] 104:8
football [4] 120:19,19,20,24
forbids [1] 115:3
Force [2] 55:10 163:22
forced [1] 70:11
forgot [1] 147:9
form [2] 15:13 101:10
forms [3] 49:21 50:15 124:4
forth [3] 36:10 91:3 107:13
forward [1] 73:22
found [2] 75:10 89:7
four [9] 21:11 27:8 29:23 41:16 47:10,15 53:14 144:22,23
Fourth [7] 3:21 91:13 143:22 144:12,12,20 145:17
framed [2] 20:2 37:18
Frank [1] 12:21
freaked [1] 126:21
free [4] 59:2 126:3,17 141:1
friend [1] 26:5
front [4] 114:3 136:19 137:7 160:10
frontiers [1] 116:8
fully [1] 113:22
fun [1] 153:16
function [5] 33:17 37:10 56:23 75:8 160:22
functional [1] 117:7
functions [9] 37:16 63:14 89:22 101:9,15 102:13,16,22 163:24
further [7] 30:8 37:25 38:1 86:3 96:20 132:7 150:16

G

garbage [1] 126:12
gather [1] 109:10
gave [2] 40:18 44:6
gears [1] 59:7
General [6] 1:20 4:23 77:24 127:17,21 153:3
generate [7] 6:18 11:10 49:21 50:8,14 152:19,21
generated [3] 101:15,17,19
generates [3] 12:18 49:24,24
generically [1] 7:13
George's [2] 163:13,17
gets [9] 26:15,19 42:19 45:20,23 61:23 63:2 113:13 156:5
getting [2] 83:14 161:19
giant [1] 43:10
gist [1] 90:15
give [34] 5:24 11:14 27:14 28:17 31:16 32:5 36:5,5 38:7,12,13,15,23 39:15 42:18 53:20 75:16 80:14 81:14 84:2,3 96:11,13 100:1 106:22 112:16 116:24 120:8,18 122:25 127:1 130:1 133:10 143:25
given [12] 28:23 48:25 49:4,10 90:11 113:18 124:7 136:3,9 138:25 141:7 162:10
gives [8] 44:2 53:1 61:4 64:25 120:6 131:10,14 140:18
giving [4] 81:4 133:12 144:2,7
glad [1] 22:23
glean [1] 151:4
glowing [1] 96:13
GONZALEZ [4] 1:3 3:4 85:12 86:2
GOOGLE [30] 1:6 3:5 8:9 10:2 13:11 16:8 45:11 46:13 49:1 64:23 65:18 66:7 74:25 75:3,8,12 88:3 108:1,5 113:8 117:20 118:21 130:6 148:7 149:11,12,16,18 157:23 163:1
Google's [5] 21:12 107:17 119:19 147:3 151:7
Gorsuch [22] 47:25 48:1,19,23 49:12 51:1,5,10,25 100:9,10 103:14 128:3 150:20,21 151:24 152:9,13 153:18 154:15 155:4,6
Gorsuch's [3] 52:4 74:3 104:8
got [14] 17:17 29:17 49:12,16 53:2 68:3 75:9 130:8 145:20,23 150:3,9 151:21,22
gotten [3] 68:15 122:22 123:11
government [9] 4:12 32:23 73:16 139:23 145:9 156:23 159:21 160:21 161:11
government's [7] 85:5,9 86:21 90:4 93:4 107:14 160:16
granted [1] 85:19
great [2] 44:9 145:22
greater [3] 79:18 106:22 134:25
greatest [3] 46:2 95:22,25
ground [3] 58:22 122:22 123:11
grounds [3] 56:19 58:25 109:24
group [2] 28:5 134:5
groups [2] 134:3,6
gruesome [1] 93:17
guess [23] 10:8 11:20 18:3 25:1 50:4 61:13,14 64:13,14 86:19 89:16 98:5,24 111:11 113:7,25 130:21 135:1 143:6,18 152:16 153:7 158:2

H

hand [3] 45:25 100:21,22
handed [1] 29:19
happen [8] 47:7,11 90:12 121:20 125:19,19,20 161:18
happened [6] 29:8 44:23 47:7 112:14 125:20 150:12
happening [15] 7:9 25:18,23 26:13 29:12 53:17,25 66:4 105:22 106:6 124:7 133:20,25 144:14 163:23
happens [8] 30:25 43:14 47:12 105:20 125:11,12 149:19 159:24
happy [2] 126:11 145:16
harassment [1] 91:16
harbor [1] 125:10
hard [5] 30:11,11 33:11 42:14 163:10
hard-working [1] 11:15
harder [2] 8:22 71:23
harm [23] 4:1 15:2 76:12 93:16 94:10 95:8 99:4,4 115:8 117:15 129:6 141:21 142:8,22 144:24,24 146:5,12,15,20,23 156:8 158:9
harmed [1] 64:9
harmful [3] 79:8 116:3 126:16
harms [1] 12:9
hate [2] 125:24 131:23
haystack [1] 116:13
headache [1] 130:11
heading [2] 117:8 162:14
headings [5] 117:24 118:5 160:17,20 162:12
health [1] 90:25
hear [2] 3:3 9:5
hearing [1] 138:14
heartland [1] 19:1
held [17] 8:24 71:6 88:7,9 90:19 95:3 100:14 105:1 109:2 112:14 113:1 132:17,20,21 138:19 139:13 161:6
help [3] 15:23 110:25 144:1
helped [1] 34:20
helpful [5] 22:18 26:6 85:21 145:11 157:4

Helping [1] 116:12
Henderson [4] 3:21 143:23 145:17,20
heroin [1] 17:23
hewing [1] 67:17
high [1] 118:2
high-paying [1] 77:20
highly [5] 47:5,9,14 91:3 124:6
hire [1] 77:1
Hispanics [1] 42:6
history [9] 69:12 110:1 120:22 130:11 133:24 134:13 140:23 142:25 143:2
hit [1] 150:3
hits [3] 140:15 147:21 148:16
hitting [1] 121:2
hold [9] 3:12 29:6 55:21 61:9 103:11 107:6 139:17 156:18 160:16
holding [5] 23:3 29:6 65:11 105:15 111:3
home [14] 137:7 155:23 157:7 158:4,6,12,18,23 159:1 162:21,22,23,25 163:4
honestly [1] 109:16
honing [1] 63:21
Honor [2] 10:13 27:14
hook [4] 96:3,16 102:23 129:19
hope [3] 31:18 118:8 131:12
hopefully [1] 124:25
horrible [1] 19:7
horribles [1] 112:25
horror [1] 126:8
host [1] 82:4
hosting [1] 69:16
hours [2] 148:17,18
however [1] 101:7
human [1] 110:17
hundreds [1] 79:1
hypothetical [15] 14:24 71:1 73:9 74:3 77:13 87:16 99:14,15 102:25 112:21 128:14,18 136:15 137:6 141:3
hypotheticals [3] 65:23 66:6 117:18

I

i.e [1] 123:3
idea [2] 27:20 52:4
identify [4] 67:24 98:14 114:10 123:10
illicit [1] 78:10
illustrated [1] 17:16
illustrates [1] 71:2
image [1] 60:4
imagine [9] 45:19 62:13 71:4 77:12 90:21 99:17 108:5 132:12 163:11
immune [3] 77:8 102:12 111:10
immunity [23] 16:9 64:22,23 65:9,18 66:11 71:15,21 72:4 73:10,23 81:20 84:24 89:21,21 92:6 111:4 113:7 118:25 121:25 122:18 139:19 159:13
immunize [2] 67:20 136:12
immunizes [1] 155:13
impermissible [1] 103:8
impermissibly [1] 103:7
implement [1] 41:19
implicate [1] 75:19
implicated [1] 87:10
implicates [1] 114:15
implications [7] 55:12,12 57:23 82:22 83:15 84:23 164:12
implicit [8] 94:24 115:22 117:3,7 118:8 159:22,24 160:20
implicitly [2] 115:16 116:20
implied [1] 56:6
important [2] 42:11 108:23
impose [2] 68:11 107:4
imposing [2] 103:11 124:17
improper [1] 121:16
impropriety [2] 78:2 80:9
inaccurate [1] 124:6
inaction [3] 33:8,20,21
inadequate [1] 18:21
incentivized [1] 139:5
inception [1] 124:11
include [5] 13:5 95:7 98:12 155:21,22
includes [2] 48:6 155:19
including [2] 106:2 130:6
inconceivable [2] 75:15 126:19
incorporated [1] 90:14
incorrect [3] 119:2 123:16 131:13
Indeed [1] 77:13
independent [6] 128:9 137:4 142:23 144:6 146:20,23
independently [2] 143:13 154:4
indifferent [1] 141:18
indistinguishable [1] 58:9
individual [2] 17:21 74:14
individualized [2] 110:12,18
individuals [1] 9:12
industry [5] 45:21,23 47:16 126:18 140:25
inevitably [1] 47:7
infancy [1] 116:7
infinite [1] 116:9
infliction [4] 86:17 88:20 124:13 146:14
information [65] 4:3,11 12:21 13:15 18:11,14,16 32:4 33:3 38:4,5,8,12,16 40:1,9 53:2,8,11 70:5 79:8 84:16,16 89:23,24 100:15 107:25 112:5 115:5,6,7,9 116:9,11 117:16 118:17,20 119:6,20 120:10,12,15 128:9 129:7,12,15 138:10 140:10,25 141:23 142:4,23 143:5 144:4,7,15 145:14 146:21,24 147:15 151:1,16,19 160:25 164:8
inherent [14] 115:25 118:6 131:5 133:14 150:24 156:21 157:1 158:11,17 161:21 162:7,13,16,20
inherently [3] 4:25 42:4 115:21
injury [1] 14:24
innocuous [2] 71:19 78:13
Innovators [1] 116:8
inquiries [1] 79:2
inquiry [2] 39:16 95:14
insofar [5] 4:6,14 15:15 19:2 28:11
instance [8] 15:4 74:25 77:5,9 104:25 105:11 108:1,2
instances [4] 15:4,6 80:14 104:15
instead [3] 5:5 30:10 115:12
insulate [1] 89:9
intelligence [6] 49:21,23 50:15 74:4,15 101:20
intend [1] 89:16
intended [2] 6:16 111:5
intent [4] 25:5,6 88:22 113:6
intentional [4] 24:24 88:20 124:13 146:14
intentionally [1] 116:3
interactive [19] 4:17 24:3,8 38:2 52:7,12,21,25 53:11,14 67:5 70:9 100:21 101:3 102:17 106:2 123:22 150:25 152:3
interconnection [1] 33:16
interest [8] 32:9,13 73:20 81:12,13 84:3 127:3 132:3
interested [18] 6:1,3,4,25 7:1,4,4 10:22 29:16 86:20 97:1 119:25 120:2,4 140:12 142:18 159:23 160:4
interesting [1] 12:20
internalize [1] 45:22
international [1] 99:25
internet [45] 3:12 4:14,16 9:24 10:1 22:12 24:19 38:8 40:19 42:7 46:3 61:1 66:1 72:8 79:2,23 90:6 91:25 93:14 97:22 106:17 111:21 113:20 115:3 116:6,14,21 122:21 123:11,22 125:9,23 126:12,17 132:15 134:4,19 135:14,19 136:14 139:2 141:1 149:11 160:2,14
internets [1] 145:11
interpretation [1] 54:13
interpreted [1] 122:1
interpreting [2] 5:6 15:21
interpretive [1] 83:22
interprets [1] 3:22
introduced [1] 134:15
invitation [1] 5:5
inviting [1] 55:23
invoked [1] 109:6
invokes [1] 78:17
involve [3] 6:20,20 78:23
involved [3] 8:23 10:1 93:18
involves [4] 3:23 10:5 34:22 35:19
involving [1] 36:25
ISIS [69] 6:2,3 7:14 9:7,8 10:17 14:25 19:15 22:9,11 24:18,20,24 25:13 26:13 28:21,22 29:2,13 31:18 32:15 33:19 34:11,12,17,18 36:9,9,10 38:7 40:20 51:16 59:10 62:19 69:16 81:11,12 94:19 99:19,22 108:6,7,8,10,11,13,14,21 109:2 113:9 114:14 115:11,12 127:2,12 139:25 144:3,7 145:3,5 146:2 154:11,13 155:25 156:17 157:12,21 158:8 159:14
ISIS's [1] 114:11
ISIS-related [1] 40:23
isn't [20] 13:14 14:5,9 25:15 26:12 46:13,14 55:6 57:9 82:18 85:8 92:8 100:19 121:22,24 142:2,3 152:17 162:20 163:2
isolated [1] 160:12
isolating [1] 146:19
issue [14] 6:11,11,19 20:20 31:20 54:4 55:5 86:1,12 103:20 113:4 118:23,23 164:2
issues [2] 109:18 142:20
it'll [1] 39:23
item [6] 8:14,15,15 43:11,12 164:5
items [3] 42:25,25 75:10
itself [18] 4:1,12 12:25 13:6 14:5 15:17 25:15 36:17 52:15 56:24 71:25 78:7 80:10 88:10 109:24 112:11 137:2 143:16

J

JACKSON [44] 15:20 16:15,21,25 17:13 18:2 64:12,13 66:24 67:7 68:3 70:16 81:19 110:23,24 112:23 114:18 121:9 123:6 124:19 135:1,7,10 136:1 138:17,21 146:8 155:11,12,20 156:2,12,25 157:3,6,15 158:2,16,19 159:5 160:5,8 161:4,23
Jackson's [1] 84:24
Jacksonville [1] 17:23
JASTA [8] 9:4 10:18 15:12 33:6 57:18 58:25 60:5,12
jazz [1] 7:2
job [11] 18:21 77:13,14,19,19 78:8 102:25 103:2,3 150:2 161:3
job-finding [1] 116:18
jobs [2] 77:20,22
John [6] 44:2,16,16 60:24,25 87:18
join [1] 31:18
joint [2] 34:21 39:22
judgment [1] 82:25
judgments [2] 82:23 159:9
judicial [1] 5:2
jump-starting [2] 126:18 140:24
jurisdiction [1] 161:5
jurisprudence [2] 48:10 101:11
Justice [352] 1:21 3:3,9 5:9,20,22 6:22 8:7,17 9:15,23 11:3,18,19,21,22,24,25 13:11,18,21,24 14:3,8,14,17 15:3,20 16:15,21,25 17:13 18:2 19:11,20,24 20:3,7,13,21,23 21:2,6,9,14,18,22 22:6,15,23 23:6,10 24:10,15 25:5,10 26:2,18 27:3,13,17,19 28:16 29:25 30:6,8,9,22 31:22,25 32:3 33:4,7 34:6,6,7,24 35:8,16,23 36:6,13,19 37:8,15,20,22,22,24 38:13,17,20 39:13,18 40:2,5,12,15,18 41:11,20,24 42:15,16,16,17 44:6,25 45:5,8,14,17 46:5,22 47:23,24,24 48:1,19,23 49:12 51:1,5,10,25 52:1,1,3,4 54:1,2 55:11 56:2,10,13,17 57:2,6,10 58:2,3,3,5,6,14,18 59:6,25 60:9,13,17 61:13,20 62:3,11,18,24 63:8,20 64:1,7,10,11,11,13 66:24 67:7 68:3 70:16,17,24 71:9 72:15,23 74:1,3 75:25 78:21 79:3,20 80:15 81:6,16,19,23 82:1,6,17 83:10 84:7,9,19,20,23 85:14 86:6,7 87:9,20 89:10,25 90:2,3,4,9,16,21 91:18,24 92:5,13,14,25 93:3,14,23 94:16,23 95:19 96:1,18,19,20,21 97:14,18 98:23,23,24 100:2,8,8,10 103:14,15,15,17,18,22 104:6,8

105:3,19,21,24 **106**:10,14 **107**:8,9,9,11,22 **108**:3 **109**: 7 **110**:2,21,22,22,24 **112**: 23 **114**:18,19,22,25 **116**:23 **118**:10 **119**:12 **121**:9 **123**: 6 **124**:19 **126**:22,24 **127**:9, 16,18,21 **128**:2,13,24 **129**: 13 **130**:16,18,22 **131**:7,10, 14,17 **132**:11 **133**:2 **135**:1, 3,7,10,17 **136**:1 **138**:17,21 **141**:2,3 **142**:1,15,20 **143**:6, 10,20 **145**:15 **146**:8,25 **147**: 5,8,18 **149**:10 **150**:14,16, 17,18,19,20,21 **151**:24 **152**: 9,13 **153**:2,18 **154**:15,22 **155**:4,6,8,8,10,11,12,20,22 **156**:2,12,25 **157**:3,6,15 **158**:2,16,19 **159**:5 **160**:5,8 **161**:4,23,24 **162**:5 **164**:20
Justices [1] **55**:10
justified [1] **91**:17

K

KAGAN [39] **9**:15 **11**:19,22, 25 **42**:16,17 **44**:6,25 **45**:5,8, 14,17 **46**:5 **47**:23 **75**:25 **79**: 3 **81**:23 **95**:19 **96**:18 **98**:23, 24 **100**:2 **126**:22,24 **127**:16, 21 **128**:13,24 **129**:13 **130**: 22 **131**:7,10,14,17 **132**:11 **133**:2 **135**:3 **150**:19 **153**:3
Kagan's [5] **54**:3 **105**:21 **130**:18 **135**:17 **154**:22
Kavanaugh [30] **52**:2,3 **54**: 1 **55**:11 **56**:2,10,13,17 **57**:2, 6,10 **58**:2 **80**:15 **81**:6,16 **82**:1,6,17 **83**:10 **103**:16,17, 22 **104**:6 **105**:3,19,24 **106**: 10,14 **107**:8 **155**:9
keep [8] **23**:23 **51**:7 **65**:4 **81**:6 **82**:19 **113**:11 **138**:13 **147**:17
keeping [1] **18**:22
kept [3] **121**:7 **128**:8 **161**:12
key [1] **104**:9
kid [1] **161**:17
kids [1] **128**:21
kind [26] **16**:3 **47**:1 **57**:22 **67**:10 **78**:2 **81**:3 **83**:22 **85**: 2 **95**:14 **99**:4,14 **100**:11 **117**:22 **121**:12 **131**:2,4 **132**:6 **134**:11,20 **141**:20 **143**:11 **144**:8 **146**:6 **148**: 10 **150**:22 **161**:18
kinds [18] **18**:5 **22**:19 **42**:18 **52**:21 **55**:21 **57**:24 **98**:25 **108**:11 **118**:1,3,5 **121**:11, 17 **130**:6 **134**:22 **144**:14 **149**:8 **163**:20
kitchen [1] **91**:2
knife's [1] **83**:24
knowingly [1] **92**:19
knowledge [4] **25**:6,7,17 **125**:15
known [4] **115**:14 **116**:15 **125**:16,16
knows [9] **75**:3,4 **91**:4,4 **93**: 24,25 **149**:14 **163**:22 **164**:1

L

label [1] **31**:19
labeled [1] **146**:25
labels [1] **147**:1
lack [1] **143**:15
language [15] **5**:6 **29**:4 **40**: 6 **43**:25 **48**:3,21 **68**:2 **70**: 12,15 **83**:23 **118**:11 **120**:16, 23 **152**:16 **164**:9
larger [1] **10**:25
largest [1] **117**:21
last [2] **63**:8 **145**:16
laudable [1] **47**:9
Laughter [5] **26**:25 **27**:12 **32**:2 **46**:4 **50**:22
laundry [2] **137**:22,22
law [44] **3**:20 **12**:6 **71**:5 **77**: 10 **78**:5,16,17,20 **83**:7,12 **84**:2 **85**:21 **87**:10 **88**:8,15 **89**:12,12 **90**:12,17 **91**:20 **96**:6,12 **97**:10,12,13 **98**:7,7, 8,14,17,22 **99**:13 **104**:1 **105**:11 **106**:22 **110**:1 **113**: 16 **119**:22 **121**:19 **124**:1 **137**:23 **141**:17,18 **145**:22
laws [5] **89**:8 **97**:11 **106**:17 **138**:4,5
lawsuit [3] **75**:21 **79**:5 **126**: 21
lawsuits [7] **76**:17 **81**:23 **82**:7,10 **83**:17,18 **116**:6
lawyers [1] **149**:22
lead [4] **24**:24 **33**:13 **99**:8, 11
leads [1] **27**:16
learn [1] **32**:20
least [10] **15**:23 **69**:11 **85**: 21 **88**:14 **91**:25 **98**:20 **104**: 1,19 **109**:19 **125**:8
leaving [1] **126**:4
led [1] **45**:11
left [4] **75**:9 **122**:23 **125**:13, 17
legal [2] **75**:16 **103**:8
legally [1] **103**:8
legislature [1] **106**:20
less [4] **57**:1 **81**:14,16 **110**: 9
lesson [1] **133**:24
letter [2] **124**:11 **160**:18
level [2] **77**:24 **145**:12
liabilities [1] **94**:18
liability [54] **16**:17 **56**:22 **57**: 3 **65**:1,1 **68**:11,12 **69**:2 **71**: 25 **72**:1,12 **73**:7 **75**:16 **76**: 15 **80**:14 **81**:15,18 **84**:15, 24 **86**:10 **87**:19 **88**:18,24 **89**:9 **92**:1 **93**:9,11 **95**:13 **96**:12 **99**:8,11 **100**:1,5 **102**: 12,20 **103**:11,19 **107**:4 **108**: 25 **109**:10,24 **112**:24 **116**: 19 **118**:23 **121**:12,13 **122**: 19 **124**:4,17 **138**:6 **143**:8, 11 **161**:11,13
liable [52] **3**:13 **16**:12 **18**:8 **19**:14 **22**:10,12 **23**:3 **25**:25 **29**:6 **30**:2,3 **38**:9 **39**:19 **41**: 13 **44**:4,12,18,21 **45**:2 **60**:5 **65**:12 **71**:6 **80**:9,16 **81**:2 **87**:24 **88**:7,9 **90**:19 **91**:7 **92**:13 **94**:20 **95**:4 **98**:3,6 **105**:1,15 **107**:6 **109**:2 **112**: 14 **113**:1,17 **121**:19 **138**:19 **139**:14,17 **149**:13 **152**:4 **156**:18 **160**:17 **161**:6,7
libel [2] **60**:22 **87**:11
Library [1] **157**:19
lies [3] **27**:9,13,19
light [3] **7**:2 **69**:11 **77**:18
likelihood [2] **82**:12 **109**:2
likely [5] **81**:2,14,17 **114**:10 **147**:25
likes [2] **109**:8 **110**:4
limited [7] **3**:17 **4**:3 **12**:8 **57**: 24 **58**:1 **67**:9 **118**:13
limiting [2] **21**:3,3
limits [1] **71**:2
line [11] **4**:20 **14**:10 **40**:13, 16,25 **41**:3 **96**:22,24 **97**:15, 21 **120**:6
line-drawing [1] **46**:17
lines [3] **46**:10,25 **54**:20
link [1] **99**:24
LISA [3] **1**:24 **2**:10 **114**:23
list [8] **30**:11 **44**:2 **52**:19 **66**: 8 **118**:15 **137**:22,22 **148**:13
listening [2] **19**:16 **20**:9
listings [1] **77**:16
literal [1] **75**:5
literally [5] **29**:11 **53**:20 **68**: 9 **126**:7 **147**:11
litigation [4] **59**:16 **86**:10 **109**:17 **150**:4
little [21] **6**:14 **15**:23 **26**:22 **28**:13 **32**:18 **45**:24 **78**:14 **80**:20 **84**:13 **87**:14,17 **130**: 14 **137**:25 **138**:4 **145**:21,23 **151**:21 **157**:8 **158**:1 **163**:2 **164**:2
live [5] **107**:1 **110**:17 **141**: 16 **163**:13,15
LLC [1] **1**:6
located [1] **40**:7
location [3] **120**:16,22 **161**: 3
logic [2] **110**:3,5
logical [1] **97**:24
logically [1] **61**:15
long [4] **8**:1 **28**:3 **61**:5,10
longer [2] **24**:7 **85**:23
longstanding [1] **55**:7
look [36] **9**:3,7,14 **10**:17 **15**: 12 **16**:20 **17**:7 **19**:3 **22**:24 **23**:14,18 **27**:20,25 **28**:1 **39**: 22 **40**:22 **43**:11,12 **54**:19 **57**:16 **59**:23 **67**:16 **68**:24 **80**:19 **83**:14 **95**:10 **100**:24 **121**:17 **129**:3,5 **135**:11 **138**:21 **140**:22 **147**:25 **148**: 9,24
looked [2] **6**:14 **134**:8
looking [21] **22**:11 **26**:9 **69**: 11 **83**:23 **95**:9,16 **96**:22 **103**:6 **108**:9 **123**:25 **124**:8 **134**:9,9,11 **144**:13,24 **146**: 12 **148**:9 **149**:2 **151**:16 **154**:12
looks [4] **9**:25 **128**:25 **136**: 10,23
loosely [1] **66**:22
lose [6] **58**:20,22 **59**:1 **60**:6 **85**:6 **150**:8
loses [2] **52**:13 **163**:22
losing [1] **150**:7
lost [3] **40**:16 **72**:4 **145**:21
lot [23] **10**:20 **11**:15 **12**:1 **21**: 12 **29**:23 **43**:21 **46**:8 **54**:14 **55**:13,15 **59**:16 **62**:14 **72**: 24 **81**:18 **82**:2,10 **89**:11 **109**:16 **117**:22 **118**:24 **126**: 2 **135**:24 **148**:18
lots [5] **75**:2 **82**:6,9,10 **160**: 24
Louisiana [1] **7**:7
lower [1] **7**:23
lower-paying [1] **77**:22
lying [1] **9**:22

M

made [27] **17**:3 **27**:22 **46**:22 **53**:16 **65**:19 **66**:12 **74**:18 **75**:17,18 **76**:3 **78**:16,24 **79**: 2 **98**:15 **99**:5 **108**:14,20 **109**:21 **110**:19 **116**:5 **121**: 8 **129**:16 **140**:7 **143**:12 **149**:9 **161**:16 **163**:8
main [1] **80**:1
major [1] **6**:10
majority [1] **19**:13
MALCOLM [3] **1**:20 **2**:6 **70**: 20
manner [3] **3**:22 **4**:9 **6**:12
manually [1] **10**:21
many [10] **28**:4 **78**:24 **79**:12 **80**:14 **83**:17,18 **86**:14,15 **101**:23 **149**:1
margins [1] **84**:14
Maris [3] **26**:10 **71**:1,10
massive [1] **134**:24
match [3] **42**:5 **77**:16 **141**:5
matching [2] **77**:13 **142**:13
material [22] **10**:6 **39**:21 **82**: 2 **85**:18 **92**:7 **93**:13 **94**:14 **96**:17 **112**:10 **124**:23 **125**: 14 **127**:9,11 **135**:13,16,20 **136**:3,6,10,21 **137**:2,15
materially [1] **58**:8
materials [7] **34**:22 **35**:20 **38**:23 **39**:4,6,8 **56**:23
matter [14] **1**:13 **27**:24 **31**: 11 **38**:24 **47**:11 **52**:14 **73**:6, 9 **92**:6 **101**:16 **127**:24 **141**: 17 **142**:9 **150**:7
matters [3] **8**:19 **100**:3,4
maximize [1] **153**:1
mean [78] **8**:8 **10**:7,10 **15**: 22 **17**:15 **21**:4 **22**:7 **24**:18 **26**:15 **27**:6,10 **28**:7 **32**:3 **33**:4 **35**:8,14 **37**:13 **45**:25 **49**:23 **52**:10,12 **55**:17 **56**:4 **57**:15 **60**:20 **61**:14,16 **63**: 15 **66**:3 **68**:4 **70**:11 **72**:19 **74**:6 **76**:14,16 **77**:8 **79**:11, 21 **81**:16 **85**:8 **86**:5,19,23 **90**:21 **91**:10 **92**:9 **97**:9,17 **106**:5,11 **109**:15 **111**:3 **112**:7,23 **118**:1 **121**:14 **122**:20 **123**:16 **126**:20 **127**: 10 **130**:5,24 **133**:1 **135**:10 **139**:13,22 **140**:14 **141**:14 **142**:2 **143**:10,13 **148**:1 **149**:20 **152**:20 **155**:1,14 **157**:4,19
meaning [9] **18**:7 **40**:9 **61**: 25 **68**:7 **69**:25 **70**:7,10 **159**: 7,8
meaningful [1] **83**:4
meaningless [1] **105**:25
meanings [1] **117**:25
means [11] **52**:8,25 **63**:11 **101**:14 **102**:11 **115**:6 **124**: 16 **138**:15,16 **152**:25 **153**: 24
meant [2] **10**:23 **92**:15
mechanism [2] **77**:19 **130**: 19
mechanisms [1] **106**:8
media [2] **32**:24 **116**:18
member [1] **93**:18
mention [3] **129**:9 **137**:16 **147**:9
mentioned [5] **87**:4 **147**:10 **153**:15 **162**:16,21
mere [3] **33**:20,21 **44**:10
merely [2] **41**:4 **96**:24
merits [1] **75**:24
mess [1] **134**:20
message [13] **75**:10 **76**:11 **88**:4 **95**:1 **114**:11 **115**:22 **117**:8 **119**:24 **127**:24 **159**: 22,24 **160**:2,21
messages [4] **43**:5,5 **76**:12 **99**:22
met [1] **88**:25
Microsoft [2] **130**:12 **148**: 25
might [50] **4**:24 **6**:9 **8**:22 **12**: 13 **15**:7 **22**:2,3 **23**:18 **27**: 25 **29**:10 **31**:3 **33**:21 **36**:17, 18 **37**:17 **40**:1 **45**:6 **46**:21 **47**:4 **48**:9,18 **57**:13 **71**:19

73:5 **75**:6 **77**:9 **79**:25 **89**:21 **97**:1 **101**:9,25 **104**:18 **113**:3 **115**:18 **118**:16 **120**:4 **126**:6 **131**:20 **132**:2 **134**:16 **135**:25 **149**:4,8,18 **153**:4 **158**:1 **159**:23 **160**:3 **162**:6 **163**:11
millions [6] **79**:1 **129**:17 **132**:23,23 **140**:15,15
mind [4] **15**:24 **49**:8 **77**:12 **111**:4
minds [1] **79**:17
minimizes [1] **46**:18
minimizing [1] **76**:1
minute [3] **26**:20 **48**:24 **148**:18
misrepresentation [1] **129**:24
missing [1] **102**:7
misspell [1] **75**:1
misspellings [1] **98**:12
mistaken [1] **50**:12
misunderstanding [2] **80**:4,5
misunding [1] **80**:5
mode [1] **75**:22
model [1] **35**:18
models [1] **121**:6
modes [1] **75**:13
moment [1] **19**:12
money [4] **57**:11 **144**:3,7 **160**:7
Montgomery [1] **163**:18
Month [2] **142**:25 **143**:3
months [1] **134**:15
Morehouse [1] **163**:13
morning [2] **3**:4 **86**:17
Most [20] **4**:15 **13**:2 **57**:8,14 **65**:10 **74**:24 **80**:2 **90**:22 **94**:9 **95**:12 **112**:18 **120**:23 **122**:15 **126**:16 **130**:4 **133**:15 **147**:24 **148**:23 **152**:25 **163**:12
motion [3] **58**:24 **98**:10 **164**:15
motivation [3] **99**:23 **100**:3,4
move [2] **59**:2 **104**:9
Ms [76] **36**:22 **46**:6 **50**:24 **77**:2 **109**:12 **111**:21 **114**:22,25 **116**:23 **117**:2 **119**:2,21 **121**:9,9 **122**:11 **123**:15 **124**:24 **126**:22,23 **127**:8,20 **128**:1,14 **129**:3,23 **130**:24 **131**:9,12,16,22 **133**:1,5 **135**:1,6,9,23 **136**:25 **138**:19 **139**:22 **141**:2,8 **142**:5,21 **143**:9,19,21 **145**:19 **147**:4,6,9 **148**:1 **149**:16 **150**:21 **151**:13 **152**:7,12 **153**:12,22 **154**:21 **155**:5,7,18 **156**:1,4,14 **157**:2,5,14,17 **158**:11,18,20 **159**:19 **160**:6,15 **161**:9
much [14] **46**:22 **58**:17 **66**:15 **81**:2,14,16 **82**:12 **93**:16 **110**:1 **121**:2,2 **150**:3 **157**:22 **164**:19
multiple [1] **44**:11
mundane [1] **74**:24
murderer [1] **87**:18
music [1] **116**:18
must [8] **3**:24 **4**:1 **8**:5,5,6 **119**:16 **151**:9,10
myriad [1] **117**:23

N

name [2] **74**:25 **75**:1
namely [1] **80**:4
narrow [2] **121**:25 **139**:18
narrowly [1] **66**:1
national [1] **145**:12
naturally [1] **65**:11
nature [1] **11**:1
near [1] **163**:15
necessarily [3] **28**:6 **82**:9 **116**:10
necessity [1] **116**:14
need [4] **47**:17 **122**:18 **123**:25 **161**:2
needle [1] **116**:13
negligence [7] **93**:12 **122**:23 **124**:13 **133**:9 **146**:14 **159**:4 **161**:14
negligent [1] **123**:4
negligently [2] **161**:14,15
neither [2] **84**:5 **110**:14
networking [1] **20**:18
neutral [36] **6**:6 **7**:3,12,18 **8**:1 **25**:2 **32**:7 **40**:24 **49**:19,22 **50**:12,13 **81**:10 **95**:15 **97**:2 **100**:16,19 **101**:4,17,19,22,23 **102**:3 **127**:22,22 **152**:15,24 **154**:18,19,25 **155**:1,2 **163**:7,9,22,25
neutrality [2] **80**:23,24
never [10] **37**:13 **122**:21 **123**:11 **129**:18 **138**:2 **150**:12 **154**:3,5,9 **156**:23
new [11] **17**:22 **23**:19 **47**:13,14 **59**:13 **60**:9 **61**:16 **63**:4 **116**:8 **126**:18 **133**:12
news [14] **43**:1 **116**:18 **134**:2,5,5,10,11 **142**:16,18 **147**:2,19,21 **148**:11 **149**:1
newspaper [6] **87**:23,24 **113**:12,16 **114**:1 **131**:4
Next [8] **21**:25 **22**:16 **23**:20 **50**:9 **111**:15 **117**:9 **118**:5 **151**:25
nine [1] **46**:2
Ninth [17] **17**:18 **49**:19 **50**:11,15 **100**:14 **102**:2 **128**:4,6 **143**:23 **146**:1 **151**:22 **152**:14 **153**:8,13,20,25,25
nobody [1] **61**:3
non-neutral [1] **163**:10
none [3] **45**:20 **101**:14 **138**:5
nonstop [1] **81**:24
normal [2] **31**:9 **164**:13
normally [2] **49**:4 **87**:22
note [1] **162**:8
notes [1] **4**:12
nothing [8] **33**:1 **51**:3 **72**:6 **106**:4 **119**:21 **125**:12 **128**:7 **129**:11
notify [1] **144**:18
notion [4] **65**:5 **127**:14 **133**:21 **146**:9
number [12] **4**:22 **11**:7 **12**:9 **31**:15,17 **32**:5 **33**:3 **79**:13 **123**:16 **152**:17,18 **163**:8

O

Oakmont [5] **65**:15 **68**:13 **69**:13 **125**:4 **138**:24
object [1] **126**:6
objection [2] **28**:23 **107**:16
obligation [1] **33**:12
obviously [5] **71**:19 **92**:13,17 **97**:11 **98**:9
occurred [1] **71**:9
offense [1] **89**:1
offensive [19] **16**:5 **17**:3 **18**:7 **68**:23 **69**:3 **111**:7,8 **113**:13 **122**:6 **124**:23 **135**:13,16,19,24 **136**:3,6,10,21 **137**:15
offer [1] **162**:8
offered [2] **153**:3,4
office [3] **11**:16 **59**:21,21
officials [1] **32**:24
often [2] **4**:4 **121**:20
Okay [41] **16**:15 **22**:9,13 **23**:8 **24**:16 **30**:6 **35**:16 **36**:19 **37**:15 **38**:25 **45**:5,14 **48**:25 **49**:9,11 **50**:4 **59**:6 **60**:13 **62**:12 **63**:8 **64**:7 **83**:10,13 **86**:6 **94**:19 **95**:22 **96**:23 **104**:6 **106**:14 **109**:7 **121**:3,3,4 **130**:16 **135**:6 **142**:15 **147**:16 **152**:13 **153**:18,18 **155**:5
once [6] **46**:12 **80**:6,7 **112**:13 **163**:22,25
one [61] **5**:14 **7**:20 **12**:8 **16**:3 **23**:22,23 **26**:4 **30**:20,21 **33**:3 **36**:20 **41**:12 **42**:13,20 **43**:10 **44**:3,9 **46**:18,24 **52**:8,20 **53**:2,4 **55**:19 **56**:19 **58**:16 **59**:18 **72**:2 **75**:22 **79**:4 **84**:25 **85**:5 **86**:12 **87**:15 **92**:21 **100**:20 **101**:18,25 **104**:25 **107**:20 **108**:1 **110**:9 **113**:25 **114**:5 **123**:25 **124**:25 **125**:18 **126**:20 **137**:20 **140**:21 **147**:6 **152**:17 **153**:6,9,14 **154**:8,14 **158**:8 **160**:1 **163**:3 **164**:4
ones [1] **147**:24
online [1] **53**:18
only [29] **4**:13 **17**:2 **18**:5 **20**:10 **22**:25 **52**:20 **53**:6,13,13 **59**:8 **65**:17 **67**:10 **90**:10,12 **94**:3 **123**:18 **124**:3 **126**:10,15 **136**:17 **140**:1 **141**:4 **142**:14,17 **156**:19 **159**:13,19,24 **164**:8
open [2] **157**:13 **160**:11
opened [1] **116**:8
opens [1] **130**:2
operate [3] **35**:21 **76**:25 **158**:22
operated [1] **97**:10
operating [1] **75**:14
operation [4] **39**:22 **74**:10 **75**:22 **104**:15
opinion [1] **153**:20
opportunity [1] **164**:18
opposed [6] **108**:9 **122**:19 **131**:25 **133**:6 **137**:8 **140**:13
opposite [1] **135**:21
options [1] **50**:7
oral [7] **1**:13 **2**:2,5,9 **3**:7 **70**:20 **114**:23
order [9] **75**:11 **76**:25 **99**:22 **101**:5 **106**:18 **108**:19 **111**:22 **140**:5 **159**:3
ordered [1] **106**:9
ordering [1] **105**:16
organization [9] **12**:10 **52**:6 **72**:24 **73**:1 **104**:10 **115**:13,21 **121**:12 **140**:3
organizational [7] **72**:10,11 **74**:5,7 **77**:7 **160**:9 **161**:7
organize [11] **36**:7 **38**:25 **73**:3 **116**:10 **120**:9 **131**:2 **134**:21 **148**:21 **159**:10 **160**:19 **161**:3
organized [3] **4**:10 **119**:23 **145**:8
organizes [1] **52**:9
organizing [11] **10**:5 **13**:15 **72**:25 **106**:3 **113**:2 **134**:23 **145**:13 **154**:2 **155**:16,17 **161**:2
original [2] **67**:19 **109**:21
originally [1] **87**:12
other [63] **4**:8,11,16,19 **7**:6 **10**:4 **12**:6 **16**:6 **24**:23 **25**:23 **26**:5,11 **32**:22 **34**:23 **36**:6 **39**:10 **41**:2 **43**:5 **45**:21,25 **48**:6 **54**:11 **69**:10 **71**:11 **72**:2,2,17 **77**:10 **79**:25 **86**:25 **91**:15 **94**:21 **99**:5 **100**:22 **105**:19 **108**:2 **115**:10 **116**:2,3 **117**:9,23,23 **118**:14 **120**:6,12 **121**:5 **122**:4 **124**:18 **126**:25 **131**:25 **132**:6 **133**:7 **134**:11 **135**:24 **138**:8,9 **140**:18 **148**:9 **149**:17 **153**:2 **154**:8 **157**:24 **160**:25
others [5] **111**:22 **113**:3 **118**:24 **134**:14 **139**:4
otherwise [7] **102**:22 **126**:12 **129**:18 **132**:24 **133**:13 **136**:20 **138**:9
ought [4] **78**:16,18 **86**:23 **164**:17
out [40] **9**:19 **10**:22 **17**:6 **23**:7 **26**:19 **40**:11 **42**:10 **44**:3,13 **45**:13 **49**:6 **51**:14 **61**:18 **62**:7 **68**:15 **69**:4 **70**:7,10 **81**:23 **82**:2 **88**:17 **90**:17 **99**:16 **106**:17 **110**:4 **115**:16 **117**:15 **119**:13 **126**:21 **133**:6 **135**:3 **140**:2 **142**:19 **144**:16 **145**:10 **147**:12 **156**:10,13 **158**:7 **160**:21
outcome [1] **79**:25
outcome-determinative [1] **86**:2
outside [18] **4**:20,21 **8**:2 **11**:9 **18**:1,24 **19**:3 **30**:18 **31**:2 **41**:15,23 **42**:13 **51**:24 **60**:16,17 **65**:24 **66**:23 **80**:13
over [18] **26**:10 **45**:18 **54**:7 **68**:6 **71**:10,18 **72**:3,17 **102**:1 **109**:17 **133**:8,8 **148**:15 **151**:3 **153**:19 **154**:1,1,1
overall [1] **70**:14
overlapping [1] **84**:25
overrode [1] **137**:19
overstated [1] **54**:24
overstates [1] **83**:7
overview [1] **89**:11
own [33] **3**:14 **50**:8 **51**:16 **72**:9 **73**:25 **74**:11,17 **77**:16 **80**:12 **84**:17 **88**:6 **89**:5 **90**:14 **94**:12 **96**:17 **99**:21 **101**:24 **103**:4 **105**:1,5,8,9,10,14 **112**:17 **117**:11,14 **121**:18 **129**:7 **146**:22,22 **147**:3 **160**:16
owner [1] **158**:15

P

p.m [1] **164**:22
PAGE [20] **2**:2 **52**:24 **113**:14,14,18 **114**:3 **137**:8 **155**:23 **157**:7 **158**:5,6,12,18,23 **159**:1 **160**:10 **162**:22,24,25 **163**:4
pages [2] **144**:22 **162**:21
pair [1] **125**:5
pan [1] **81**:22
parade [1] **112**:25
paragraph [1] **19**:14
paragraphs [2] **19**:13,13
paraphrasing [1] **12**:16
parse [2] **70**:6,10
part [17] **6**:10 **8**:16 **20**:16 **22**:6 **31**:4 **35**:20 **46**:9 **68**:5,5 **69**:24 **80**:24,25 **95**:11 **122**:12,14 **142**:2,3
partially [1] **151**:19

particular [29] 5:13 8:14 9:4 27:22,24 35:18 36:25 68:2 71:4 73:21 74:12,13,21 79:10,10 80:8,19 89:3 97:12 99:18,24 104:16,17 105:12 106:18,20 110:16 127:23 163:5
particularized [2] 67:24 70:15
parties [4] 39:7 74:19 119:6 122:14
parts [1] 122:12
party [3] 34:22 39:24 75:18
pass [1] 45:23
passed [1] 89:17
past [2] 97:15 120:21
pedantry [1] 71:20
people [47] 6:1,2,3 9:7 10:17 11:16 13:15 14:7 15:12 17:7 19:2 20:15 21:8 23:14,14 24:23 28:5 41:6,12 42:1,4,5,5,6 65:23 81:11,13 86:11 91:17 111:25 113:18 127:2 129:18 131:20 132:23 134:4 135:25 136:20 139:1 141:5,6,10 142:19 145:2 149:24 163:12,14
people's [6] 79:17 99:21 116:2,3 120:12 162:25
per [1] 120:11
perceive [2] 85:18 104:19
perceived [1] 84:1
percent [1] 145:20
perfect [2] 47:22 144:25
perform [2] 102:15,21
performing [1] 102:12
perhaps [3] 22:18 27:8 139:4
permissible [1] 86:4
permit [1] 164:15
person [22] 27:22 34:14 41:5 71:9 75:1,3 81:2 88:8 91:14,15,16 93:16 94:9 97:6 104:18,18 108:21 142:14,17,25 143:1 158:9
person's [3] 104:17 132:18,20
persons [1] 152:19
perspective [1] 65:8
persuasive [1] 79:24
perversely [1] 125:14
petition [2] 52:24 100:17
Petitioner [3] 111:13 139:24 146:4
Petitioner's [1] 158:10
Petitioners [6] 1:4,19 2:4,14 3:8 162:3
phone [4] 31:15,15,16 33:3
phrase [1] 150:8
phrased [1] 28:24
pick [6] 11:8 23:22 52:3 54:2 101:6 116:10
picking [9] 48:7,10 49:1,8,13 50:1,10 100:25 151:5
picks [1] 52:9
picture [2] 39:23 82:18
pictures [1] 6:14
piece [5] 81:18,20 112:24 113:5 145:14
pieces [1] 145:14
pilaf [4] 7:5,6,13 8:21
pinpoint [1] 124:24
pitching [1] 27:21
place [4] 7:6 28:3 54:13 61:24
placement [4] 102:25 103:2,3 140:5
places [1] 163:15
plain [1] 83:23
plainly [1] 124:9
plaintiff [8] 15:7,16 78:17 98:13 109:6 111:12 144:22 164:15
plaintiff's [1] 115:8
plaintiffs [4] 85:6 115:20,23 145:1
plaintiffs' [1] 149:22
plans [1] 54:17
platform [35] 69:1 74:9,10,17 75:14 77:6 78:3,9 83:8 84:15 87:6 88:22 93:9 94:15 96:8,15,17 99:18 103:12,12 104:25 105:14 107:6 108:20,22 110:11,14 111:6,22 112:10,11 114:9 122:4 136:16 159:14
platform's [8] 73:25 74:11 84:17 105:5,8,9,9,14
platforms [12] 66:2 67:20 68:22 75:17 79:12 108:24 122:4 135:15,19 136:12 139:4 155:13
play [2] 29:1,2
played [3] 30:20 42:10 80:23
playing [1] 113:11
plays [1] 25:14
plead [2] 115:20 156:21
pleading [2] 98:19 146:12
please [5] 3:10 70:24 84:9 115:1 162:5
poetry [1] 49:24
point [30] 5:25 11:23 12:1 27:6 37:18 41:1 46:21 56:14 62:13 72:20 76:9 78:12 86:11,12 91:22,23 92:22 97:20 101:25 110:10,16 114:1 125:8,22 145:16 153:5 155:22 156:14 161:19 163:8
pointed [1] 135:3
pointing [4] 90:16 109:14 115:24 156:21
points [3] 11:6 84:24 164:4
polemics [1] 49:24
policy [1] 140:23
popular [1] 148:10
position [30] 10:9 37:25 52:10 55:4 71:2,3,14 72:6,8 76:2 80:4,6,11,12 85:5,9,11,16 86:21 93:1,2,4,5,6 102:7 103:22 104:9 107:14 110:3,5
posits [1] 121:20
possibility [4] 50:16 64:17 71:23 79:5
possible [5] 86:5 93:17 152:6,11 164:12
possibly [1] 97:4
post [5] 74:19 77:14,15 94:9 109:22
post-algorithm [2] 9:21 49:20
posted [9] 15:8 17:22 74:19 88:3 91:14 96:10,14 108:21 119:5
poster [3] 88:25 112:12,17
posting [3] 119:8 145:12 149:13
postings [1] 78:8
posts [3] 90:23 93:17,21
potential [2] 77:15 87:3
potentially [4] 94:17 95:3 104:25 149:13
practice [4] 6:9 19:10 47:14 164:14
practices [6] 22:19 37:6 42:18,20 43:18 47:8
pre-algorithm [2] 9:17,20
precedent [2] 17:17 55:8
precise [2] 54:4 82:25
precisely [2] 28:6 89:23
precision [1] 29:1
predicament [1] 132:13
predictions [1] 54:23
predictive [2] 82:22,25
predominantly [1] 98:20
prefer [1] 101:25
preferences [2] 37:3,3
preferring [1] 95:11
premises [1] 49:10
prepared [1] 117:25
presence [2] 78:8 118:25
present [8] 5:25 25:25 34:9 39:4,9 76:5 133:22 134:18
presentation [3] 76:8,10 80:22
presentational [1] 76:18
presented [11] 4:10 14:21 18:17 20:2 26:5 37:1,11 39:5,11 122:16 136:16
presenting [4] 13:15 63:22 99:1 111:25
presents [1] 18:11
preserving [1] 73:22
presumably [2] 75:23 85:19
Pretty [2] 58:17 91:12
prevailing [1] 82:12
previously [1] 154:7
primary [1] 81:4
Prince [2] 163:13,17
principle [2] 131:21 154:19
prior [1] 44:10
priorities [1] 69:9
prioritization [5] 45:2,12 76:8,11,19
prioritize [2] 44:21 105:11
prioritized [3] 43:1,2 44:8
prioritizes [3] 42:24 105:4 108:6
prioritizing [2] 10:6 99:2
priority [2] 66:8 106:22
Private [1] 124:22
pro [2] 133:7,7
pro-defamatory [2] 132:25 133:6
pro-ISIS [4] 12:2 126:25 130:20 131:19
probably [11] 32:17,19 36:21 41:9,13 69:24 106:16 113:3 148:12 149:17 150:12
problem [18] 6:11 12:3 14:11,14 23:21,21 33:9 35:7 36:3,12 41:7 76:1 78:22 101:21 123:9,10 132:16 152:16
problematic [1] 124:6
problems [4] 46:17,24 54:23 90:25
Prodigy [3] 10:20 53:20 139:6
produce [3] 12:2,4,5
produced [2] 108:6,8
produces [1] 12:15
product [2] 147:1 161:13
products [4] 89:5,6 101:25 161:11
professional [1] 77:20
profile [2] 91:12 142:2
profiles [2] 142:7,8
profit-maximize [1] 101:24
profits [1] 153:1
prohibit [1] 65:11
prohibiting [1] 141:17
projection [1] 80:3
prominence [2] 79:18 112:16
promote [1] 101:24
promoting [7] 99:19,19 111:17 135:19,23 139:20 163:5
prong [1] 109:17
prospect [1] 86:9
protect [8] 47:3,18 59:12 66:1 109:10 110:6 135:14 161:20
protected [31] 4:25 38:19 39:11 43:14,15,15,16,24 46:13 47:1,6 48:15 49:5 50:2 55:22,24 60:22 61:10 62:8 94:4 100:16,25 101:8,14 103:10 133:18 137:5 140:1,1 151:8 162:15
protecting [3] 78:6 84:15 94:7
protection [30] 8:3 18:1 19:4 35:11,24 42:19,22 45:21 52:13 54:8 60:7 72:12 73:23,24 91:19 94:5 97:23 102:18,19,20 124:22 127:7,25 129:2,22 131:10,14 135:11,18 138:22
protective [1] 71:5
protects [5] 59:8,23 93:9 101:2 137:10
proverbial [1] 116:12
provide [2] 35:10 54:8
provided [16] 4:3 24:20 38:4 70:5 84:16 89:23 93:23 103:6 115:5 117:16 118:18,19,21 119:6 138:10 147:15
provider [34] 4:4 12:11 24:19 38:2,5,9 40:19 42:7 48:6 49:3,7 53:3,5,7,16 63:16 70:6 72:9 84:17 89:9,24 90:6,13 93:15 96:3 97:22 99:3,5 100:25 101:2,3 102:11 118:20 119:19
providers [10] 20:14 22:12 59:8 91:25 100:22,23 106:18 147:2 151:2 164:9
provides [3] 90:7 100:15 159:13
providing [6] 30:5,10 33:2 48:12 111:16 151:10
provision [4] 43:22 53:23 77:10 106:3
psychology [1] 134:12
pub [1] 60:21
publication [13] 4:3 14:19,22 115:5 124:1 131:3 137:20 138:7 145:22,24 156:22 157:1 162:20
publish [9] 3:20 29:21 64:5 87:23 116:3 132:6 143:17 159:25 160:1
published [1] 39:7
publisher [36] 3:19 8:6 34:16,20,25 36:14 38:4 63:12,12 64:4 67:2,11 68:11,12 70:1,4 82:15 87:7 92:2,11 103:13 104:2 105:17 107:6 112:5 113:12,17 115:4 123:23 138:15 139:8 144:10 146:10 155:14,15 159:10
publishers [1] 114:2
publishes [1] 119:9
publishing [31] 13:22 14:1,1,18 16:3 35:4 36:16 44:19 115:21,25 116:2 117:4,14 118:8 120:5 124:18 131:5 133:14 138:16,20

143:4 146:15 158:12,17 161:19,20,21,21 162:7,13,17
pull [1] 54:12
pulling [1] 121:16
punished [1] 69:2
pure [3] 62:22,24 138:12
purely [4] 13:13,14 14:21 29:5
purported [1] 91:14
purpose [2] 70:14 126:13
purposely [1] 24:17
purposes [7] 15:5 69:12 73:9 89:20 108:3 114:16 143:20
pursuant [1] 119:14
push [1] 127:23
pushes [1] 136:19
put [26] 13:19 20:15 28:20 36:9 38:7,22 41:22 43:8 82:20 92:3 94:18,25 104:14 113:14,17 123:1 128:20 131:18,18 132:5,7 142:6 147:23 158:4,22 160:10
puts [6] 8:1 34:11 93:25 129:1 157:10 158:6
putting [8] 28:5 33:10 59:12 62:14 72:23 81:18 99:20 158:4
Q
qualifications [2] 77:15,23
qualify [1] 55:25
question [69] 9:23 10:13,14 11:12 12:25 14:9 17:22 20:2 24:16 25:1,20 26:4 28:5,7 31:4 35:5 36:20,21 37:19,21 43:24 44:20 50:4,18 56:11 58:21 60:12,15 63:9 64:24 65:3,10 69:21 82:18 83:23 84:22 86:4 87:8 88:6 89:16 98:20 100:5,13 101:22 103:18,19 104:8 105:21 106:24,25 107:12 109:4,5,8 121:22 122:8,13,15,16,17 124:3 127:19 133:2,5 145:7 154:22 156:5,19 164:11
questions [20] 5:8 23:5,9 27:4 44:11 52:4 54:3 58:7 63:25 64:21 66:6 72:14 80:21 96:23 98:8 107:2,3 116:22 121:11 150:23
queue [3] 74:13 104:17 110:16
queues [1] 99:21
quibble [1] 71:20
quite [2] 66:19 104:14
quo [2] 83:11,13
quote [1] 146:2
quotes [1] 128:23
quoting [2] 61:6,11
R
race [4] 103:1 129:9 141:9 163:9
races [1] 132:1
racial [1] 142:20
racing [2] 6:3,4
racist [1] 131:24
radicalize [1] 114:12
radicalized [2] 145:3 158:9
radically [1] 120:20
raised [2] 117:18 127:9
raising [1] 127:15
random [5] 13:13,14 14:21,23 157:11
randomly [1] 157:9
rankings [1] 108:12
rare [2] 77:8 85:2
rated [1] 123:4
rather [8] 43:5 63:5 75:22 81:19 95:13,14 102:4 105:1
rationale [2] 74:23 107:5
rats [1] 91:1
re [1] 60:21
reach [1] 58:21
read [20] 15:25 17:1,21 19:8 38:10 52:15 54:7 59:14 60:23 65:11,14,15 68:18 88:16 106:1 111:25 118:9 138:1 153:19,20
reader [1] 160:3
readers [2] 119:25 120:1
reading [3] 55:19 137:12 138:1
reads [2] 68:10 110:11
real [2] 46:18 123:10
really [47] 7:24 10:10 16:3 18:2,12 24:19 28:2 30:13,14 35:9 44:8 46:1 54:14,24 55:8 63:13,15,21 65:25 68:20,21 69:7,15 72:25 76:17 78:5 81:22 83:1,16,18 84:12 92:14 93:15 99:2 105:25 106:4 110:25 111:14,19 122:3 130:19 133:3 135:14 141:16 146:13 152:24 159:12
reason [8] 80:17,18 89:8 95:11 96:15 103:24 138:8 157:22
reasons [1] 123:17
REBUTTAL [3] 2:12 162:1,2
receives [1] 72:12
recent [3] 130:4,14 149:7
recently [1] 143:22
receptive [1] 114:11
recipients [1] 74:21
recognized [1] 128:5
recognizing [1] 27:23
recommend [1] 88:4
recommendation [43] 4:25 5:3 12:18 19:9 20:11 31:19 33:8,17 43:10 50:9 55:25 56:3,4,6,7,23 57:7,25 69:8 82:14 87:5 88:3,5,13 94:17 95:21 96:14 99:1 104:12,19,24 112:3,19 113:23 116:25 118:18 119:3,4,9,11,18 120:13 140:3
recommendations [32] 8:13 30:13 31:6 50:5 52:5 55:6,24 57:9,14,19 59:9 65:22 66:9,22 69:15 74:9 85:3 111:1 114:6 115:15 118:14 122:9 133:23 134:1,13 139:20 140:11,18 147:22 154:6 159:16,20
recommended [1] 154:10
recommender [1] 88:11
recommending [9] 19:6 33:18,25 67:12 88:10 96:9,25 116:20 140:4
recommends [3] 21:7 25:13 80:6
reconsideration [1] 102:5
recruiting [1] 24:22
reduces [1] 18:13
refer [2] 48:21 52:6
reference [1] 162:7
referred [5] 4:5,24 6:15 12:14 79:6
referring [2] 51:8 128:2
refers [2] 52:20 70:8
reflects [1] 115:25
refuses [2] 91:5 94:1
refusing [1] 149:13
regard [5] 55:5 69:21 124:16 163:7 164:5
regardless [4] 37:2 131:11,17 141:11
regime [1] 122:24
regular [1] 43:7
regulatory [1] 47:6
reiterate [1] 164:6
related [2] 37:2 66:13
relationship [1] 135:4
relevance [1] 130:10
relevant [8] 88:9 95:5,8 96:7,13 149:2,6 164:16
relying [1] 58:19
remand [6] 50:17 86:3 102:4 151:22 153:9,21
remark [3] 132:18,21,22
remember [1] 126:14
remove [7] 65:12,20 66:3,13 93:8 94:4 122:5
removes [1] 125:14
render [1] 160:17
repeat [5] 87:11,13 88:11 90:18 95:23
repeated [2] 87:17,21
repeatedly [1] 32:23
repeating [2] 121:7 128:8
replead [1] 124:12
report [2] 144:16,17
request [4] 27:22,23 93:13 130:10
requested [3] 29:4 104:18 127:3
requesting [1] 80:8
require [1] 5:1
requirement [1] 14:19
requirements [1] 7:25
requires [3] 7:20 25:17 115:21
reruns [1] 133:15
resembled [1] 89:20
residual [1] 152:2
resolves [1] 85:24
respect [14] 8:20 35:1 73:6 83:6 89:2 95:6 98:10 100:5 103:5 109:23 112:15 113:6 154:22 155:2
respond [2] 36:18 74:3
Respondent [5] 1:7,25 2:11 11:6 114:24
Respondent's [1] 99:17
responding [1] 28:15
response [5] 41:17 52:16,17 55:18 103:23
responses [2] 79:1 84:25
responsibility [1] 129:20
responsible [9] 8:10,13,24 12:23 69:5 132:17,20,21 147:2
responsive [2] 31:24 32:1
restaurant [4] 90:23,24 149:25 150:1
restrictions [1] 125:4
result [7] 11:15 108:12,20 112:16 116:7 140:16 145:22
results [6] 89:4,6 105:12 106:22 108:7 120:21
retirement [1] 54:16
retreat [1] 109:20
return [2] 46:21 150:22
retweet [7] 59:10 60:4 62:6 109:13,23,24 110:13
retweeted [3] 61:17 109:11,20
Retweeting [1] 61:7
retweets [2] 109:8 110:4
revenue [2] 144:1 146:2
reverse [1] 159:2
review [3] 149:25 150:1 162:8
reviewed [1] 150:9
reviewers [1] 150:6
reviews [1] 123:2
revolutionary [1] 116:7
REYNALDO [1] 1:3
rice [1] 7:5
rightly [1] 16:8
rise [6] 64:25 75:16 80:14 81:14 96:11 100:1
rival [1] 90:24
road [6] 10:10 61:8 71:24 81:22 100:6 120:25
ROBERTS [40] 3:3 8:7 26:2,18 27:3,13,17,19 28:16 29:25 30:6 34:6 37:22 42:16 47:24 52:1 58:3 64:11 70:17 78:21 79:20 86:7 87:9,20 89:10,25 96:19 98:23 100:8 103:15 107:9 110:22 114:19,22 118:10 119:12 150:14 155:8 161:24 164:20
Roger [3] 26:9 71:1,10
role [1] 80:22
rooms [2] 20:15 47:19
routinely [1] 98:9
routing [1] 77:19
rule [6] 4:23 31:5 49:19 55:23 101:22 164:5
rules [5] 49:22 101:17,19 163:10,21
run [4] 57:20 133:15 162:18 163:24
running [1] 91:1
runs [3] 24:1 157:12 164:2
Russia [1] 148:12
S
safe [1] 125:10
Samaritan' [2] 135:12 138:23
same [37] 5:16,18,23,25 8:17 10:23 11:17 18:12 23:17 58:10,19 61:23 69:15 73:15 76:24 77:23 88:19 96:9 104:11 107:24,25 108:15,18 114:4 115:22 120:19 127:5 128:9 137:6 140:7 144:21,22 146:2,3 148:2 159:18 160:13
sat [1] 160:3
satisfied [1] 14:19
satisfy [2] 25:16 59:4
saw [3] 12:25 78:1 159:21
saying [53] 5:11 14:18 18:13 19:1,17 21:25 23:2,18 26:17 52:7 54:20 56:3,6 67:15 69:16 72:3 76:13 81:20 87:15,17 88:16 90:24 92:23 97:7 99:7 100:3,4 113:15 122:20 123:9 127:17 128:3 129:1 131:8 132:5 135:18 138:13 139:24 140:12 141:10 142:14 146:10,13,18,20 149:24 156:15 159:20,21 160:5,8 161:1,12
says [35] 8:4,5,15 12:20 19:14 22:1 26:8,10 31:14 42:3 43:23 50:9 52:24 60:23,25 65:9 69:23 81:23 91:2 95:24 96:24 111:10,12,13,15 118:12 123:21 125:12 130:11 135:11 138:22 142:16 145:9 154:5,6
scale [2] 10:25 134:25

scare [1] 128:22
scenario [4] 49:6 71:8 87:16 135:3
scenarios [1] 17:2
scheme [2] 47:6 136:8
SCHNAPPER [150] 1:18 2:3,13 3:6,7,9 5:10,18,21 6:8 7:16 8:25 9:16 10:12 11:5 12:13 13:17,19,23,25 14:4,12,16,22 15:10 16:13,16,23 17:11,14 18:18 19:19,22 20:1,5,12,19,22,25 21:4,7,10,16,20 22:5,13,17 23:4,8,11 25:4,9,12 26:14,22 27:1,5,15,18 28:8,25 30:4,19,24 31:23 32:16 33:5,15 34:19 35:3,13,17 36:2,11,15 37:5,12,16 38:11,15,18 39:3,17,20 40:4,8,14,17 41:8,14,22 42:9,17 43:19 44:10 45:3,6,10,15 46:16 48:1,17,20 49:11 50:20,23 51:3,9,12 52:17 55:3,17 56:9,12,15,18 57:4,8,13 58:6,12,17,23 59:14 60:8,11,15,19 61:19,22 62:9,17,22 63:1,17,24 64:2,8 66:17,25 67:22 69:18 73:13 85:17 100:14 107:12 109:9 162:1,2,4
Schnapper's [2] 80:22 107:20
science [1] 134:9
scienter [1] 95:7
scope [14] 4:21 10:18 11:9 13:20 15:19 33:6 51:24 65:24 67:19 86:21 91:19 113:7 121:25 139:19
screen [8] 16:5,11 17:5 69:4 111:7,10 122:5 142:19
screening [6] 18:7 68:23 124:23 135:12,16 138:23
screens [1] 52:9
screenshot [3] 62:19,19 147:14
screenshots [2] 107:13,15
search [47] 10:2 28:23 34:17 38:23,24 43:8,8,20,21,23 44:1 45:1 49:15 74:25 75:5,8 77:19 89:3,5 97:25 98:2,11,15 105:12 106:7,22 108:6,7,12 116:14 120:10,14,22 130:5,6,11 134:22 137:8 140:8,9,16,19 147:19 148:2,8,24 151:8
searches [4] 36:24 120:11 148:20,23
searching [1] 154:14
Seattle [1] 1:18
Second [10] 4:2 42:23 43:6,12,14 77:11 122:14 124:2,25 126:1
secondary [1] 104:2
Secondly [1] 44:15
Section [28] 3:11,17 4:2,13 16:7 48:4,22 51:18 58:21 59:7 61:3 62:8 64:20 65:10 66:13 85:22 114:16 115:2,10 124:22 125:1 128:21,21 137:12,21 144:6 164:5,7
sections [2] 3:16 140:14
see [29] 6:17 7:8,21 14:12,12,13,15 24:19,25 25:14 30:12,12,21 32:6 50:6 61:14 65:7 67:7 68:4,8,8 97:4,7 116:11,15 130:21 136:20 137:9 143:18
seek [2] 3:12 101:24
seem [8] 11:18 19:16 71:20 78:14 79:25 81:17 86:23 97:19
seemed [3] 91:16 107:16 113:14
seems [20] 48:12 54:3 58:7 62:13 63:10 84:25 85:25 95:15 97:23 104:9 109:3 118:10,25 135:4 139:18 143:10 149:6 150:23 151:25 152:21
seen [4] 37:14 104:21 129:18 132:24
selected [2] 157:11 162:24
selection [2] 8:12,23
selects [1] 157:9
self-defeating [1] 106:3
sell [1] 53:21
seller [1] 26:7
selling [2] 45:16 53:22
sells [1] 71:8
send [7] 10:9 31:1 34:2,3 60:24 61:10 85:7
sending [7] 23:17,24 24:6,11 26:16 34:4 114:13
sends [1] 80:7
sense [8] 3:20 7:3 53:16 99:20 137:25 138:4 140:11 155:15
sensitive [1] 50:16
sent [3] 15:18 103:9 114:7
sentence [3] 68:9,9 153:14
separate [6] 23:7 60:12 76:2 113:4 117:14 136:19
separated [2] 115:16 128:21
separately [1] 62:16
separation [1] 66:15
serious [1] 54:17
seriously [1] 55:14
server [1] 59:19
servers [1] 60:4
service [33] 4:15,18 24:4,8 38:3 52:8,12,25 53:2,8,11,12,15 60:2,2 67:6 70:9 72:9 77:13 90:6 91:25 93:14 100:21 101:3 102:17 103:1,3 106:2,17 113:20 123:22 129:25 152:3
services [4] 4:16 52:21 151:1 164:8
set [4] 6:7 51:14 62:25 73:2
setting [1] 37:3
sex [1] 121:4
sexually [1] 133:15
shaky [1] 78:14
shall [3] 38:3 71:6 123:23
share [1] 116:9
sharing [1] 144:1
she's [1] 154:23
shield [3] 91:25 116:1 141:7
shielded [2] 77:4 101:11
shoplifter [4] 44:17 60:24,25 87:24
short [2] 26:4 164:4
shorthand [1] 146:7
shouldn't [7] 35:23,25 73:8 78:5 87:1 128:11 162:15
show [13] 28:12,13,14,21 29:11 31:1 34:11 88:21 98:16 99:24 126:8,9 157:20
showing [6] 22:15 24:23 81:10 91:1 125:15 163:14
shown [7] 9:13 81:11,13 95:6 127:3 163:16,18
shows [1] 87:18
side [8] 26:5 54:11 69:24 105:19 107:16 115:10 120:6 140:18
sign [1] 53:19
signed [1] 134:5
significant [2] 8:16 86:10
similar [7] 7:14 22:16 24:12 37:11 100:13 116:25 130:25
simple [1] 68:18
simply [11] 34:16 74:9 81:10 82:10 88:16 93:7 94:14 104:25 109:11 123:21 150:25
site [4] 10:3 96:10 97:25 162:18
sites [3] 117:21 142:10 149:1
situation [9] 54:9 57:23 59:18 110:6 111:14 112:8 114:8 117:12 149:20
skinny [1] 121:6
sky [1] 46:6
slammed [1] 139:7
slightly [1] 75:2
slim [1] 109:3
smarter [1] 75:3
Smith [1] 87:18
Snapper [1] 5:9
snippet [3] 13:5,6 44:15
so's [1] 87:24
soccer [1] 120:24
social [2] 20:17 116:18
software [13] 48:6 49:3 51:21 53:3,5,7,15,22 100:22,25 101:2 102:11 164:9
solely [1] 119:6
Solicitor [2] 1:20 153:3
somebody [12] 26:8 28:7 37:9 61:6,11 87:5 90:18 93:16,24 121:14 142:13 150:10
somehow [6] 68:14 128:4 148:5,21 151:22 153:24
someone [16] 3:13 23:17 31:14 34:10 41:25 42:2 47:13 57:16 59:20 63:11 97:4,7 120:3,3 128:15 133:8
somewhat [2] 67:23 105:25
somewhere [5] 10:20 11:16 41:3 123:5 141:16
sorry [16] 11:4 35:14 40:4 45:9 57:4 58:13 84:9,19,21 126:23 130:17 147:10,16 156:12,17 158:16
sort [15] 54:8 65:16 67:15,17 68:17,18 74:14 96:13 105:15 114:14 129:24,24 134:4 136:7 156:6
sorting [5] 102:15,21 130:19 145:12 151:18
sorts [6] 19:7 27:2,11 54:15 77:7 90:25
SOTOMAYOR [48] 11:3,18,21,24 19:11,20,24 20:3,7,13,21,23 21:2,6,9,14,18,22 22:6,15,23 23:6,10 24:10 25:5,10 37:23,24 38:13,17,20 39:13,18 40:2,5,12,15,18 41:11,20,24 42:15 96:20,21 97:14,18 127:9 150:18
Sotomayor's [2] 58:6 141:3
sounds [1] 146:6
source [2] 33:8 148:11
sources [1] 147:22
speaker [7] 38:4 82:16 87:7 103:13 105:17 107:7 115:4
speaking [4] 84:22 85:4 126:7 138:7
special [1] 81:4
specific [9] 5:6 21:1 33:13 43:22 46:24 57:1 68:1 95:16 164:10
spectacular [1] 94:19
speech [28] 12:10,11 105:5,8,13 116:2,4 117:14,18,19 125:24 126:3,17 128:18,25 129:8,17 131:23,24,25 132:2 140:4 141:1,24 146:22 147:16,23,25
spell [1] 75:12
Spelman [1] 163:12
spend [1] 150:4
spent [1] 149:1
sports [6] 26:7,11 29:16,18,18 71:11
spreading [1] 97:8
stability [1] 84:4
stage [4] 95:13,13 98:10,19
standard [4] 32:12 59:5 102:6 164:16
standards [1] 31:9
stark [1] 78:2
start [7] 24:6 43:20 48:4 61:8 145:4 156:16 162:6
started [2] 38:6 126:20
starting [1] 134:18
Stat [1] 68:13
state [14] 71:4,22 73:18 88:9 96:7,13 97:12,12,12 98:8 121:14,17 145:10 161:5
state's [1] 107:4
statement [8] 68:7 71:14,16,18 90:18 97:8 117:5 158:13
statements [1] 72:1
STATES [5] 1:1,15,22 2:7 70:21
states' [1] 122:23
status [6] 83:11,13 92:2 141:25 142:11,22
status-based [1] 141:20
statute [121] 3:16,19,22 4:21 5:1,7 7:19,20 8:3,4,5 9:1,16,18,19,20,21 10:23 11:9 12:3,8 13:10,20 15:22,25 16:2 17:1,1,10 18:1,5 19:1,4,9 21:12 23:17 27:8 29:4,23 30:18 31:2 35:10,25 40:9 43:23,25 46:19,23 47:10,16,18 48:12 51:24 52:5,6,15 57:18,20 59:12,23 60:20 61:25 63:6 65:25,25 66:10,23 67:9,10,14,19 68:1,7,19,20 69:11 70:2,12 71:16 73:10 79:16 83:24 89:18 92:24 100:19,20 102:14 104:7 118:11,19 119:21 121:24 122:10 123:14 124:10 125:8 127:13,24 132:14,16 135:8,22 136:4,11,18,24 137:9,13 138:22 139:1,9 140:20 144:9 152:2,17 159:7,8,12 160:18 161:20 164:9
statute's [1] 36:4
statutes [1] 47:20
statutory [9] 4:6 13:7 24:2 48:3,14 51:7 63:9 84:12 136:7
stay [1] 94:14
steals [1] 162:14
STEWART [66] 1:20 2:6 70:19,20,23 72:19 73:5 74:6 76:1,21 79:11 80:1,17 81:8,25 82:5,8 83:5,21 84:7,8,11 85:11,15 87:2,13 88:1 89:15 90:8,10 91:9,21 92:3,9,16 93:2,5,20 94:2,21 95:2 96:5 97:9,17 98:5 99:10 100:7,10 102:8 103:21

104:4,13 105:7,23 106:5, 12,15 107:19,23 108:17 109:15 110:8 112:7 113: 25 114:21 121:10
stifling [1] 116:6
still [21] 8:9 13:10 18:7,15 27:5,7 72:15 74:7,10 75:2 76:16 82:15 87:6 98:13 102:16,18 120:5 127:5 129:1 133:14 134:21
stock [1] 81:18
stop [1] 116:5
stopped [1] 19:6
stories [1] 44:2
story [1] 142:20
straight [1] 45:1
straightforward [1] 68:18
Stratton [5] 65:15 68:13 69:13 125:3 138:24
strict [5] 68:12 69:2 93:10 124:4 138:5
strictly [1] 92:12
strongly [1] 133:21
structural [1] 52:14
structure [2] 41:25 137:21
stuff [15] 18:8 19:4,7 34:2,3 45:20 46:7 86:25 117:22 125:11 126:11 131:5,18,19 149:5
subcategory [1] 92:11
subject [5] 8:19 27:24 36: 25 76:19 94:17
subjected [2] 74:8 91:15
submissions [1] 105:18
submitted [2] 164:21,23
substance [1] 35:11
substantially [1] 76:23
substantive [5] 9:6 34:13 73:7 98:7 99:13
successful [2] 57:12 83: 17
sudden [1] 46:12
suddenly [1] 32:14
sue [2] 82:11 122:22
sued [7] 34:15 71:13 72:9 90:6 122:8 123:12 159:3
suffered [1] 145:1
suffering [1] 97:19
suffers [1] 90:25
sufficient [2] 73:18 98:16
suggest [4] 48:13 75:6 79: 22 97:1
suggested [3] 79:3 103:23 112:22
suggesting [5] 8:18 31:7 33:19 89:13 135:13
suggestion [3] 9:23 32:8 39:16
suggestions [5] 30:13,23, 24 31:6 57:1
suggests [3] 6:25 121:10 135:20
suing [2] 87:5 133:8
suit [6] 35:11 71:21 73:21 74:8 76:20 77:8
suits [6] 76:9 82:12 86:15, 16 98:18,25
summary [1] 102:6
sunk [1] 79:24
support [5] 16:2 86:24 99: 22 127:10 162:9
supporting [4] 1:22 2:8 70: 22 127:12
suppose [5] 13:11 36:8 77: 18 90:23 126:24
supposed [3] 156:24 158: 21,22
SUPREME [2] 1:1,14
Surely [1] 6:8
survive [3] 22:25 39:1,1
suspect [1] 86:14
switching [1] 59:7
system [11] 43:10 45:2 46: 14 53:3,8,12 61:2 68:25 69:1 149:23 154:13
systematically [2] 99:18 114:12
systemic [1] 110:19
systems [1] 164:7

T

Taamneh [2] 58:15 164:13
table [6] 26:7,11 27:25 71: 11 72:17 123:19
tailor [1] 116:15
tailored [2] 66:1 120:14
tailoring [1] 119:23
talked [3] 137:17,18 151: 21
talks [1] 131:25
tantamount [2] 18:13 159: 17
target [2] 121:1 160:21
targeted [6] 114:6 115:15 119:16,17 133:22 134:1
targeting [2] 119:17 140: 11
task [1] 46:19
teaching [1] 40:21
tease [2] 140:2 144:16
teased [1] 68:15
tech [1] 45:23
technical [2] 36:11,21
technically [1] 4:17
technology [6] 63:4 133: 24 134:6,7,17,17
teed [1] 25:22
tees [1] 113:10
television [1] 131:4
tells [3] 40:2,5,7
term [1] 48:5
terms [23] 31:13 51:7 66: 16 67:19 75:5 96:9 113:6 121:11,16 123:2 124:8 125:3,9 126:2 129:25 131: 1 133:20 137:11,17 138:12 141:17 151:15 154:10
terrible [1] 145:1
terribly [2] 90:22 95:25
terrorism [2] 86:24 99:25
terrorist [1] 8:20
test [22] 50:12 100:19 102: 3,3,4 129:3 143:21,22,23 144:11 145:17,18,25 146:1, 2,3,5 152:15,25 153:8,10, 13
text [18] 8:11 13:6 15:25 52: 18 54:6,6 55:1,4 63:9 65: 10 69:22 84:12 104:7 114: 15 116:21 135:5 136:11 138:12
textual [1] 52:14
textually [1] 71:15
themselves [3] 36:7 75:17 118:14
theory [19] 30:1 50:21 58: 19 59:11 60:5 62:7 71:7 74:23 93:11,11,11 94:6 99: 17 105:6 107:20 109:12,12 115:19 135:2
there's [32] 8:23 17:3,21 18:7 40:23 43:3,21,22 51: 3 59:15 66:8 68:14 71:15 76:7 82:2,14 96:15 110:16 118:23 119:24 123:18 127: 10,10 128:7 142:8 149:7, 21,22,22 155:3 160:9 164: 14
therefore [5] 51:23 94:25 105:24 149:12 163:14
they'll [6] 12:4,5 59:1 163: 16,17,18
they've [7] 29:3 35:6,20 38: 16 39:7 130:8 163:6
thin [1] 119:14
thinking [2] 59:9 71:23
thinks [3] 61:3 79:14 120: 23
Third [12] 4:13 34:22 39:7, 24 43:7,15 44:20 62:24 74: 19 75:18 119:5 152:23
third-party [57] 3:19,25 4:5, 10 13:9 29:5 35:5 36:16 39:8,12,21 44:19 51:23 56: 22 57:7 60:22 62:23 63:22 65:13,20 67:2 72:13 74:18 78:8 82:4,16 88:25 90:9, 13 93:8 94:14 99:19 102: 20 103:5,13 105:2,17 107: 7 108:25 109:14 112:12,17 115:7 116:11,20 129:6,12 137:4 141:22 142:3 144:4, 4,15 146:21,24 147:16 158: 7
third-party-provided [1] 35:12
THOMAS [19] 5:9,20,22 6: 22 8:18 30:8,9,22 31:22,25 32:3 33:4,7 72:15,23 74:1 90:2 116:23 150:16
Thomas's [3] 9:23 24:15 127:18
thoroughly [1] 64:14
though [11] 14:9 42:11 68: 10 87:11 88:2 96:8 101:8 103:23 109:21 112:2 136: 23
thousand [1] 122:21
threatens [1] 116:21
three [16] 3:16 23:4,8 42:18 43:13 44:11 52:20 53:1 55: 8 67:25 68:4,8,16 69:22 70:13 126:15
thumbnail [16] 12:19 13:1 14:2,5 15:1,1,4 24:13 34: 21 35:1 39:15,20,23 62:20 64:6,9
thumbnails [33] 6:10,15, 19,20,23 7:2 9:13 13:2,4, 12 14:20 23:13,16 29:14 31:1 34:11,17,25 35:4,5,19, 24 36:1,8 37:1 39:14 41:1 47:21 62:15 107:13,18 147:10,10
thumbs-up [1] 59:13
tied [1] 68:1
tiny [1] 86:25
title [4] 124:20,22 125:3 157:8
today [12] 4:19 19:16 33:23 49:24 56:21 63:20 64:21 66:13 79:12 122:2,8 162: 17
today's [3] 115:3 116:21 147:19
together [5] 20:15,16 28:5 125:6 137:18
tomorrow [16] 9:5,9 19:7 25:15,20 32:17,21 33:22 57:19 58:20 59:1,5 80:21 85:6 118:24 164:3
tomorrow's [5] 20:23 58: 10,14,24 65:2
took [4] 16:1 44:16 143:22, 24
tool [1] 101:5
tools [10] 49:19 50:12,13 100:16,19 102:3 152:15 154:18,19 163:7
top [8] 99:20 129:1 131:18, 19 147:21,24 148:12,23
topic [8] 117:8,24 118:4 121:2 160:17,20 162:12,14
tort [5] 34:14 72:21 95:5,18 149:23
tortious [1] 128:18
totally [1] 123:6
track [1] 69:23
traditional [1] 63:14
transcript [2] 128:23 162:9
transmitted [1] 8:11
treat [8] 3:18 8:6 63:11,12 69:25 103:12 104:10 124: 15
treated [9] 38:3 64:4 67:1 82:15 87:7 104:1 109:21 123:23 139:8
treating [9] 105:16 115:3 117:13 124:17 141:10 143: 4 144:9,10 156:8
treatment [5] 81:4 138:15 141:9 146:10 155:14
trending [3] 118:5 162:16, 19
tried [2] 31:21 121:15
Tripadvisor [1] 116:16
true [6] 66:5 79:12 84:6 88: 20 90:17 121:24
Truman [1] 126:8
trustworthy [3] 72:18,22 73:4
try [12] 15:23 18:18 23:11 29:5 54:19 59:3 64:15,15 69:4,4 109:1 136:13
trying [25] 7:10 9:18 16:16, 22 17:14 18:3 29:6 32:11 67:20,23 68:10,16,21 76:2 111:11 121:23 132:16 135: 14,21 136:12 139:6,16 144: 15 147:11 158:3
Tuesday [1] 1:11
Turkey [1] 149:4
turn [5] 6:9,20 12:14 33:25 128:16
turned [1] 44:13
turning [1] 63:9
turns [4] 44:3 88:17 119:22 158:7
TV [2] 133:10,12
tweet [3] 60:21 110:11,13
tweets [1] 43:2
twice [1] 153:15
Twitter [16] 10:3 29:10 39: 5 42:23 43:2 58:15 62:2,5, 5,6 73:16,17 80:20 85:7,16, 24
two [24] 3:23 22:19 23:7 46: 24 49:10 53:4 57:5 64:18 65:6 75:13 85:18 96:5 104: 23 117:21 120:19 122:11 123:17,18,24,24 125:18 134:15 152:18 164:4
type [8] 26:13 29:13 36:8 39:14 133:7 137:14 148:2, 3
typed [1] 75:8
types [1] 22:8
typically [5] 13:5 15:1 49: 15 53:19 110:12
typing [2] 149:3 160:12

U

ubiquitous [1] 10:14
ultimately [2] 86:1 122:1
unanimously [1] 54:7
uncertainty [1] 46:8
unclear [1] 45:24
uncomfortable [1] 96:24
uncommon [1] 15:13
under [39] 12:3 13:1 14:19

23:17 30:1 33:21 35:25 38:9 51:17 60:5 73:7,18 79:3 81:15 88:8,15 89:7 90:17 91:19 95:18 96:12 97:23 98:21 99:17 100:1,16 102:5 105:5 109:5 111:15 113:16 118:18,25 127:24 133:18 137:23 140:8 144:9 152:1
underlying [9] 9:6 34:13 73:8,24 82:16 87:8 98:22 119:20 146:9
underneath [1] 9:22
understand [31] 6:24 16:25 21:24 32:1,7,10 33:10,12 48:2 49:16 61:14,15 64:15 86:20 95:20 97:10,20 100:12 104:10 110:25 111:11 113:8,22 118:13 123:7 139:23 153:8,23 154:16,20 158:3
understanding [7] 55:1 67:18 88:14 90:11 92:20 103:19 152:1
understood [1] 155:12
undescribable [1] 130:8
undirected [1] 95:14
unhappy [1] 141:19
uniform [1] 84:2
Union [1] 45:11
UNITED [5] 1:1,14,22 2:7 70:21
universe [1] 111:24
unlawful [2] 77:5 102:22
Unless [7] 14:17,20 69:14 88:21 154:13 158:22 159:1
unlike [1] 117:20
unlikely [2] 75:15 80:13
unreasonableness [1] 93:12
unrequested [1] 24:12
until [1] 23:13
unusual [1] 57:19
unusually [1] 71:5
up [53] 15:22 16:11 22:1 23:13,20 25:22 27:14,16 50:9 52:3 53:19 54:2 61:9 62:25 65:8,24 74:13 75:11 77:17 86:10 92:22 94:1,18,25 103:18 104:8 110:15 111:15 112:10 113:9,10 116:8 117:8 118:5 120:2 121:16 122:23 125:9,13,17 126:4 129:1 130:2 131:18 134:5 136:14 142:7,9 147:13 157:10,13 160:11 163:9
uploaded [2] 142:12 148:18
upset [2] 150:10 151:21
urge [1] 4:23
urging [1] 55:20
URL [7] 17:24,24 34:23 39:25 40:2,5 108:1
useful [1] 161:2
useless [1] 125:7
user [24] 6:25 22:8 38:2 41:13 59:15,17,22 60:3,20 61:24 62:4 80:8,8 109:17 110:10,11 120:14,15 130:10 134:8,9,10,13 140:10
user's [2] 37:2 120:21
users [19] 9:3 20:15 59:8 78:1,10 103:10 109:8 110:4 114:8,10 116:11,12,15,16 117:23 120:8,19 148:9 149:1
uses [8] 3:20 10:16 11:7 12:12 34:24 36:24 37:9 59:20
using [17] 5:14,15,16 14:6 35:19 36:7 47:21 60:2 61:1,1 62:5 78:3 100:15 101:4 106:7 134:3 158:13
Uzbekistan [1] 7:5

V

vacate [1] 86:3
vacatur [3] 1:23 2:8 70:22
validity [1] 144:8
vanishingly [1] 138:6
varied [2] 37:6,17
variety [4] 55:21 66:21 106:7 137:22
various [1] 158:6
vary [1] 97:11
vast [1] 19:12
vehicle [1] 22:11
verb [1] 93:21
version [1] 28:3
versus [5] 3:5 31:6 107:13 113:14 126:8
viable [1] 89:7
video [54] 6:17 12:24 13:5 15:8,13,17 22:9,16 23:15,19,22 25:13 29:2,3,13 30:20 36:9,10,16,24 59:10 64:5 74:13 80:7,7,10 87:18 88:5,23 90:7,9,14,22,24 91:1,14 94:19 95:21,23,24,25 96:9 97:3,5 108:22 116:17 154:11 155:24,24,25 157:11,12 158:8 159:14
videos [55] 5:15 6:1,2,3,12 7:14 8:10 9:7,14 10:17 23:24 24:18,23 28:14,18,21,22 34:11,12,17,18 36:9 37:11 51:16 69:16 74:20 81:11,13 87:14 93:18 99:19 108:6,13,19 110:15 113:10 114:14 115:12,13 119:5,13 121:17 127:2 139:25 144:4 145:5 147:1 148:17 149:14 156:17 157:9 158:7,8 163:14,15
view [18] 7:17 24:1 31:20 60:19 64:3 68:10 79:4 80:24 90:5 94:2 99:16 102:1
122:19 135:4 140:9 143:15 151:12 153:5
viewed [2] 22:2 24:13
viewer [2] 6:16 22:11
viewers [2] 115:14,17
viewpoints [1] 140:24
views [1] 63:18
violate [4] 78:15,20 106:24,25
violated [2] 98:14 105:10
violates [3] 12:5 77:10 78:4
violation [2] 98:16 106:21
violence [2] 121:3 125:23
violent [1] 133:12
violently [1] 133:16
virtually [1] 32:13
virtue [3] 96:16 109:20 124:18

W

wait [1] 79:22
walk [1] 120:2
walls [7] 21:11 27:8 29:23 41:16 47:10,15 53:14
wanted [2] 53:18 106:21
wants [3] 93:15,16 142:24
warranted [1] 79:16
Washington [5] 1:10,18,21,24 163:16
watch [6] 88:4 94:19 95:21,24 97:3 115:17
watched [1] 148:17
way [62] 6:7 7:14 9:2 14:6 15:21 18:10,16 20:1 24:17 28:23 36:4,7 37:18 41:18 42:10 44:21,25 46:9,20 47:3 61:7 64:19 65:7 66:1,20 67:24,25 68:18 71:15 79:15 82:3,19 83:4 85:24 89:4,13 90:12 96:1 97:11 99:17 102:22 104:14 105:12 106:19 107:25 111:18 113:2 117:9 120:7,7,24 127:8,25 136:17 137:15 138:1 142:10 145:8 146:11 148:2 153:21 154:2
ways [6] 10:5 12:11 43:9 123:24 124:6 142:6
weaken [1] 125:7
web [1] 160:22
website [39] 4:18 17:4,20 18:8,15 19:8,15,18 52:11 61:5 65:12 69:3,17 75:7 77:16 82:14 94:7,9,13 111:9 117:10,13 119:5 123:1 125:14 126:20 137:2 139:12 142:13,23 143:3 149:17 155:23 156:8 158:15,21,22 159:3 163:4
website's [7] 94:12 129:7 141:23 143:16 144:18 146:22,22
websites [18] 16:18 82:3
115:4,7 116:1,9,19,19 117:23 120:8 125:21 126:3 131:23 149:9 150:11 156:24 160:24,25
week [2] 157:10,13
weight [3] 62:14 72:24 84:3
weird [1] 145:23
welcome [3] 5:8 72:14 116:22
well-established [1] 55:7
well-known [1] 147:21
what'll [1] 114:3
whatever [20] 13:6 34:8 55:24 59:4 64:25 67:13 78:25 79:7 109:5 112:4 113:18,24 118:22 141:15 144:8 148:3 150:8 161:16,17,21
whatnot [1] 65:6
whenever [2] 117:2 124:16
whereas [1] 110:14
Whereupon [1] 164:22
whether [53] 10:2,2 13:1 24:13 31:19 51:6,10 60:11 64:22,22,25 66:11 69:7,8 73:6 74:8 76:4 78:15 85:6 86:22 92:18 93:10 95:5,15 98:5 101:4,16,18 105:12 106:24,25 110:25 111:12,20 112:9 113:1 121:19 127:21,22,23 130:10 131:3,17,19 136:2 139:19 140:2 141:13,16,24 157:18 158:4 163:21
white [9] 42:5 77:21 141:6 142:14,17,18,25 143:2 163:18
who's [4] 27:22 53:8 60:20 93:18
who've [2] 81:11,13
whoever [3] 22:8 150:9,9
whole [9] 56:5 62:14 76:9 125:8,22 136:7 156:14 161:1,19
wide [2] 55:21 106:7
widely [1] 37:17
width [1] 40:16
Wikipedia [1] 116:17
will [21] 23:23 24:23 36:25 40:22 47:7,11 50:24 59:2 77:16 78:10 79:23,23 81:24 82:6 104:20 106:21 112:25 114:2 120:19 142:19 162:9
Williams [1] 123:2
win [3] 51:2 69:14 150:7
wind [2] 74:13 110:15
winning [1] 150:8
wipe [1] 45:13
wish [1] 101:7
within [23] 8:2 9:11 10:18 13:20 15:17,18 21:11 27:7 29:3,22 40:9 43:24 47:9,
15,20 53:14 61:25 91:11,12 102:16 103:25 143:4 144:5
without [8] 32:18 36:7 60:6 76:5 80:8 87:21 96:25 160:11
woman [2] 141:14,15
wonderful [1] 133:24
word [8] 59:15,17 119:3,4 120:20 124:15 156:9 158:12
words [10] 4:7 16:7 70:2 115:2 118:14,19 124:18 126:25 160:16 162:19
work [10] 7:20 33:21 67:25 95:12 125:6 137:18 142:10,11 145:11 148:2
workable [1] 120:8
workers [1] 54:16
working [1] 40:19
works [2] 7:12,13
world [10] 9:21 24:21 45:19 48:9 49:20 68:15 76:16 111:21 116:8 120:23
world's [2] 117:21 120:9
worms [1] 130:2
worried [4] 126:2 139:2 161:9,10
worry [4] 83:1,15 85:1 154:24
worse [1] 153:25
write [6] 41:12,16,20,24 44:18 63:5
writes [1] 40:11
writing [1] 41:8
written [8] 4:7 36:4 46:20,23 47:3,3 108:13 132:14
wrongdoing [1] 81:5
wrongful [2] 128:12 154:4
wrote [4] 29:18 39:10 47:18 138:14

Y

years [1] 54:8
Yelp [2] 116:17 150:2
yesterday [1] 147:20
yield [1] 11:14
Young [1] 123:2
yourself [2] 25:2 109:22
YouTube [70] 6:12 8:9 10:3 13:12,16 21:25 22:20 23:23 28:11 29:12 30:10 32:12,22 34:2,10,15,24 36:24 37:3,4,9,13 42:20 50:7 53:4 59:19 62:1,16,25 74:20 76:4,25 80:6,7,9 81:9 87:14 91:4 93:22,24 94:17 96:15 107:17 108:8 113:8 114:6 115:11 117:20 118:21 121:15 122:2 144:2 146:25 147:20,23 148:7,17,19 149:12 154:9,13 155:23 156:17,18 157:7,12,13,23 158:5 163:4

YouTube's [8] **5:**12 **50:**5 **74:**17 **80:**12 **115:**13 **119:**4 **147:**23,25

Z

Zeran [3] **91:**10,10,13
Zillow [1] **116:**17
Zimmerman [1] **123:**3
ZIP [1] **120:**1